

STATE OF NEW HAMPSHIRE
SITE EVALUATION COMMITTEE

October 11, 2018 - 9:00 a.m.
 49 Donovan Street
 Concord, New Hampshire

DAY 8
Morning Session ONLY
No Afternoon Session held

{Electronically filed with SEC 10-23-18}

IN RE: SEC DOCKET NO. 2015-04
Application of Public
Service of New Hampshire
d/b/a Eversource
Energy for Certificate
of Site and Facility
(Adjudication Hearing)

PRESENT FOR SUBCOMMITTEE/SITE EVALUATION COMMITTEE:

Patricia Weathersby <i>(Presiding Officer)</i> David Shulock Dir. Elizabeth Muzzey Charles Schmidt, Admin. Dir. Christopher Way Michael Fitzgerald Susan Duprey	Public Member Public Utilities Comm. Div. of Hist. Resources Dept. of Transportation Div. of Economic Dev. Dept. of Env. Services Public Member
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ALSO PRESENT FOR THE SEC:

Michael J. Iacopino, Esq. Counsel for SEC
(Brennan, Lenehan, Iacopino & Hickey)

Pamela G. Monroe, SEC Administrator

(No Appearances Taken)

COURT REPORTER: Cynthia Foster, LCR No. 14

{SEC 2015-04} [Morning Session ONLY] {10-11-18}

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P R O C E E D I N G S

(Hearing resumed at 9:00 a.m.)

PRESIDING OFFICER WEATHERSBY: Welcome back all. We'll get started today with our hearings on the Seacoast Reliability Project.

Today we're continuing the cross-examination of Bob Varney. First examiner is Town of Newington. Susan Geiger.

CROSS-EXAMINATION

BY MS. GEIGER:

Q Good morning, Mr. Varney.

A Good morning.

Q For the record, I'm Susan Geiger, and I represent the Town of Newington.

Mr. Varney, you submitted Prefiled Direct Testimony dated April 12th, 2016, in this docket, correct?

A Yes.

Q And the purpose of that testimony was to provide your assessment and your conclusions on potential impacts of construction and operation of the Project on local land use and to offer your opinion that the Project will not unduly interfere with the orderly development of the

1 region; is that correct?

2 A Yes.

3 Q And you also submitted a report dated April 2016
4 which was submitted with the Application in this
5 docket, correct?

6 A Yes.

7 Q And you filed Amended Prefiled Testimony dated
8 March 29th, 2017, correct?

9 A Yes.

10 Q And the purpose of your Amended Testimony was to
11 reflect the changes in the Amended Application;
12 is that correct?

13 A Yes.

14 Q But your Amended Testimony didn't change your
15 initial opinion about the project, did it?

16 A No.

17 Q And you filed Supplemental Prefiled Direct
18 Testimony dated July 27th, 2018; is that
19 correct?

20 A Yes.

21 Q And you also filed the second report entitled
22 Review of Land Use and Local and Regional
23 Planning, the Seacoast Reliability Project. Is
24 that correct?

1 A Yes.

2 Q And this report has been designated as a July
3 2018 update. Is that correct?

4 A Yes.

5 Q Is this report intended to replace in its
6 entirety the first report that you filed?

7 A Yes. I believe so. There was a lot of new
8 information and a great deal of time had
9 elapsed, and so it was intended to provide the
10 SEC members with a complete review of
11 information.

12 Q Okay. So turning to your Supplemental Prefiled
13 Direct Testimony, do you have that? This has
14 been marked as Applicant's Exhibit 146.

15 A The Supplemental?

16 Q Yes.

17 A Yes.

18 Q Do you have that?

19 A Yes. I do.

20 Q Okay. On page 1, lines 17 and 18, you state
21 that a recent decision rendered by the SEC in
22 another docket necessitated updates and
23 revisions to my testimony and reports; is that
24 correct?

1 A Yes.

2 Q Could you please identify the recent SEC
3 decision to which that statement refers?

4 A The Northern Pass decision.

5 Q Could you please explain exactly what in
6 particular about the Northern Pass decision
7 required that you revise your earlier testimony
8 and your reports in this docket?

9 A Throughout the report I tried to provide updated
10 and more detailed explanation of issues and
11 analysis that was evaluated as part of the
12 report, was the basis for my opinion.

13 Q I guess looking a little bit more for particular
14 issues within the Northern Pass decision that
15 required you to update your report.

16 A There were a number of questions throughout the
17 process that were raised, questions during the
18 testimony, not only of me but of others, and I
19 thought it best to further explain and explain
20 in more detail some of the questions that had
21 been raised. Things like tourism, businesses,
22 for example.

23 Q Okay. Isn't it true that your opinion of the
24 Northern Pass's projects effect on the orderly

1 development of the region was essentially the
2 same as your opinion regarding this Project, the
3 Seacoast Project?

4 A They're very different projects, and I looked at
5 them independently even though there were some
6 common elements associated with them in terms of
7 being located within an existing right-of-way,
8 but I looked at them independently and feel that
9 each case should be looked at on a case-by-case
10 basis and should be evaluated in that manner by
11 the SEC members.

12 Q Okay. I'd like to show you a copy of your
13 testimony in the Northern Pass docket that's
14 been marked as Newington Exhibit 10. I'm going
15 to use the ELMO.

16 Mr. Varney, can you see that exhibit?

17 A Yes.

18 Q Could you please read the lines that have been
19 highlighted by the blue marker in the left
20 margin?

21 A Yes. The Project will not unduly interfere with
22 the orderly development of the region. By using
23 existing electric transmission and
24 transportation corridors and locating

1 substantial portions of the Project underground,
2 the Project will have minimal impact on
3 prevailing land uses and is consistent with
4 local patterns of development. The electric
5 transmission system in New Hampshire was
6 constructed beginning in the early 1900s. The
7 existing rights-of-way along the Project route
8 contain several transmission and distribution
9 lines constructed at different times and have
10 been regularly upgraded and maintained as
11 electric utility corridors through to the
12 present day. Similarly, the roadway corridors
13 have traditionally been used as a route for
14 overhead or underground electric lines
15 throughout the state. The use of these
16 corridors will not change and Northern Pass's
17 use of the corridor will not change land
18 patterns in the surrounding area. Siting a new
19 transmission line in existing corridors is a
20 sound planning and environmental principle
21 because it reinforces local patterns of
22 development and minimizes environmental impacts.
23 There will be no changes to prevailing land uses
24 as a result of the operation of the project.

1 Q Now, that testimony that you provided in the
2 Northern Pass docket was in response to the
3 question above, what is your opinion of whether
4 the Project will unduly interfere with the
5 orderly development of the region. Is that
6 correct?

7 A That was part of the answer.

8 Q Well, I'm just asking you about the question.

9 A Yes.

10 Q Now, turning to your testimony in this docket,
11 the Seacoast docket, I'd like to show you what's
12 been marked by the Applicant as Exhibit 13. And
13 again in response to the same question, what is
14 your opinion of whether the Project will unduly
15 interfere with the orderly development of the
16 region, could you please read your response in
17 the lines that have been highlighted with the
18 blue marker in the left-hand margin?

19 A Sure. Again, it's a factual statement,
20 paragraph, in which I state that the project
21 will not unduly interfere with the orderly
22 development of the region. By using existing
23 electric line right-of-way and transportation
24 corridors and locating portions of the Project

1 underground and underwater, the Project will
2 have minimal impact on prevailing land uses and
3 is consistent with local patterns of
4 development. The electric transmission system
5 in New Hampshire was constructed beginning in
6 the early 1900s. The existing rights-of-way
7 across the state contain several transmission
8 and distribution lines constructed at different
9 times and have been regularly upgraded and
10 maintained as electric utility corridors through
11 to the present day. Similarly, roadway
12 corridors have traditionally been used as a
13 route for overhead or underground electric lines
14 throughout the state. The use of these
15 corridors will not change and SRP's use of the
16 corridor will not change land use patterns in
17 the surrounding area. Siting a new transmission
18 line in existing corridors is a sound planning
19 and environmental principle because it
20 reinforces local patterns of development and
21 minimizes environmental impacts. There will be
22 no changes to prevailing land uses as a result
23 of the operation of the project.

24 And then it continues with more explanation

1 in answer to the question.

2 Q So your conclusion in both the Northern Pass
3 dockets and this docket that the Projects will
4 not unduly interfere with the orderly
5 development of the region is exactly the same,
6 correct?

7 A That paragraph was exactly the same, but as I
8 indicated, there was a longer answer to the
9 question, and the paragraph is intended to
10 convey to the SEC members who are not always the
11 same on each docket the fact that use -- and the
12 SEC itself has found this on many instances as
13 well as local and state and federal
14 regulators -- that use of existing corridors is
15 a sound environmental and planning principle and
16 should be encouraged over the use of alternative
17 routes where there currently is no existing
18 utility corridor.

19 Q But Mr. Varney, isn't it true that in the
20 Northern Pass docket the Site Evaluation
21 Committee found that the construction of
22 transmission lines in existing corridors is not
23 the only principle of sound planning nor is it a
24 principle that's to be applied in every case?

1 A I'm not here to debate the Northern Pass
2 Project. As I indicated, each Project should be
3 considered on its own merits, should be
4 considered on a case-by-case basis, and I'll
5 leave it at that.

6 Q Okay. Did you not just testify that you wanted
7 to convey to the Committee and you believe that
8 the Committee has found in other cases that
9 constructing transmission lines in existing
10 corridors was a sound principle?

11 A I was simply stating a well-known principle that
12 has been known by federal and state regulators
13 and even the SEC itself over the years that one
14 should look at using an existing corridor for
15 siting of their Projects.

16 Q But isn't it true, and I'm showing you now on
17 the ELMO a portion of the SEC's order in the
18 Northern Pass docket which has been marked as
19 Newington Exhibit 11 that the SEC determined
20 that while you were correct, that you failed to
21 note that constructing transmission lines in
22 existing corridors is not the only principle of
23 sound planning nor is it a principle to be
24 applied in every case; isn't that correct?

1 A As I've indicated previously, each Project
2 should be reviewed on a case-by-case basis on
3 its own merits.

4 Q Now, isn't it also true that in the Northern
5 Pass decision you indicated that as long as a
6 utility corridor is used for transmission lines
7 there can never be a tipping point where the
8 affected transmission infrastructure on land
9 becomes too intense?

10 A Again, I did not discuss a tipping point in my
11 testimony. I believe that was from the Northern
12 Pass decision which I'm not here to testify
13 about.

14 Q Right, and that's my question is in that case in
15 the Northern Pass docket, you did indicate to
16 the Committee that you did not believe that
17 there would be a tipping point at which the
18 effect of transmission infrastructure on land
19 becomes too intense. Is that correct?

20 A I don't know how one would define a tipping
21 point if one were to use that standard. I've
22 never seen a standard about a tipping point, and
23 so I really don't have anything to offer in that
24 regard.

1 Q Well, I'd like to show you again what's been
2 marked as Newington's Exhibit 11, and, again,
3 this is an excerpt from the Northern Pass order,
4 and on page 277 of that order, continuing on to
5 278, the SEC said in essence Mr. Varney suggests
6 that as long as a corridor is used for
7 transmission lines, there can never be a tipping
8 point where the effect of transmission
9 infrastructure on the land use becomes too
10 intense, and then the Committee went on and said
11 we disagree; isn't that correct?

12 A Apparently, it is. But again, I'm not here to
13 discuss the Northern Pass Project. This is a
14 different project in a different location with a
15 number of different factors associated with it.

16 Q Just one last question about that. But isn't it
17 true that the SEC denied the Northern Pass
18 certificate because the Applicant failed to meet
19 its burden in demonstrating that the Project
20 would not unduly interfere with the orderly
21 development of the region?

22 A I understand that was their reasoning in their
23 decision.

24 Q Was the Northern Pass Project proposed to be

1 constructed in a utility corridor already
2 occupied by a high voltage transmission line?

3 A Again, I'm not here to discuss the Northern Pass
4 Project.

5 Q Well, let's discuss this Project then. Now, the
6 Seacoast Reliability Project is different from
7 Northern Pass, right?

8 A Each Project is unique.

9 Q And isn't one of the differences here that this
10 Project is proposed to be constructed, a high
11 voltage transmission line is proposed to be
12 constructed not in a transmission corridor but
13 in an easement that currently hosts a 34.5 kV
14 distribution line; is that correct?

15 A It's in a corridor that is an electric line
16 corridor, a power line corridor that currently
17 exists.

18 Q And isn't that power line corridor currently
19 used for a lower voltage 34.5 kV distribution
20 line, not a high voltage transmission line; is
21 that correct?

22 A Currently, yes.

23 Q So even though the Seacoast Reliability Project
24 is different from Northern Pass, as you've

1 indicated, and even though this Project is
2 proposed to be located in a distribution line
3 corridor, you've basically reached the same
4 conclusion in both cases, that the Project will
5 not unduly interfere with the orderly
6 development of the region; is that correct?

7 A I reached the conclusion based on the facts of
8 the Seacoast Reliability Project.

9 Q Okay. Now, you're familiar with the statutory
10 finding that this Committee must make regarding
11 orderly development of the region; is that
12 correct?

13 A Yes.

14 Q And would you agree that that finding is that
15 the Committee after due consideration of all
16 relevant information regarding the potential
17 siting or routes of a proposed energy facility
18 including potential significant impacts and
19 benefits, the Site Evaluation Committee shall
20 determine if issuance of a certificate will
21 serve the objectives of this chapter, that
22 chapter is 162-H, and in order to issue a
23 certificate a Committee shall find that the site
24 and facility will not unduly interfere with the

1 orderly development of the region with due
2 consideration having been given to the views of
3 municipal and regional planning commissions and
4 municipal governing bodies; is that correct?

5 A Yes.

6 Q So on the finding of orderly development of the
7 region, would you agree that the SEC must give
8 due consideration to the views of municipal
9 governing and planning commissions?

10 A Yes. They always consider their views.

11 Q Would you agree that "due consideration" means
12 that the SEC must listen to and consider the
13 views expressed by municipalities?

14 A Yes, especially when it's in writing.

15 Q Okay. And before submitting all of your
16 Prefiled Testimony and reports in this docket,
17 did you meet with anyone from the Newington
18 Board of Selectmen to discuss their views of the
19 Project?

20 A Yes, I did.

21 Q Who did you meet with?

22 A I attended a meeting, a Project meeting in
23 which, that was held by the Planning Board and
24 chaired by the Planning Board Chairman in which

1 Eversource made a presentation about the
2 Project. I also met with the professional
3 planner for the Town of Newington and actually
4 went out with him in his automobile to review
5 the route which I already knew fairly well.

6 Q And what views were expressed either at that
7 first meeting that you talked about or described
8 and the second meeting that you described?

9 A At the presentation, there were, I would say,
10 more questions than views expressed. I believe
11 there had been outreach with the town for a
12 couple of years prior to that meeting, and then
13 I learned after the fact that the town made a
14 revision to their master plan less than a month
15 after the January 2015 meeting.

16 Q Did you attend the public information session in
17 this docket held in Newington in April of 2015?

18 A Yes, I did.

19 Q Do you know about how many members of the public
20 attended and expressed concern about the Project
21 at that meeting?

22 A I don't recall the exact number.

23 Q Would you say there were more than 10, more than
24 20?

1 A Again, I didn't take a headcount. There were
2 many people from the Project that were there as
3 well and many people just to listen.

4 Q And were you there to listen as well?

5 A Yes.

6 Q Did you recall hearing any statements at that
7 public hearing which advocated that the
8 transmission line in Newington be buried?

9 A I believe there was a statement, may have been
10 by you, that was made at that meeting on behalf
11 of the town or the Planning Board.

12 Q Isn't it true that burying the line in Newington
13 is consistent with Newington's master plan?

14 A The revised master plan that was revised to
15 target the Project less than a month after the
16 presentation to the Planning Board.

17 Q That revision that you're talking about to
18 Newington's master plan, that's the current
19 master plan, right? That is the town's master
20 plan?

21 A I believe so, but it's been somewhat confusing
22 in that I had a copy of the 2010/2020 master
23 plan that was adopted in 2009, then found after
24 the fact that there was a change to the utility

1 section and revisions that appeared to be
2 targeted at the Northern Pass Project in the
3 master plan. I was provided a copy of those
4 changes by the Town Planner and considered them
5 and included them in my analysis and reports,
6 and then the town master plan had been taken off
7 line so the master plan was no longer available
8 on line as it had been previously, and then was
9 surprised to see a different version provided to
10 the Committee as an attachment, I believe, to
11 the Planning Board Chairman's Prefiled Testimony
12 and was puzzled by that change which was
13 different because I wanted to make sure that I
14 had accurate information on this topic to
15 provide to the SEC, and then found that it was
16 inconsistent with the Planning Board minutes of
17 that meeting and the Planning Board
18 retroactively went back and revised their
19 minutes of the 2015 meeting three years later to
20 revise it to reflect the wording that was
21 submitted to the SEC by the Planning Board
22 Chairman.

23 So it was a very unusual set of
24 circumstances and sequencing of events

1 associated with the master plan which was a bit
2 confusing to me because the town was an
3 intervenor in the case and had every opportunity
4 to make their views known and didn't need to
5 suddenly amend the master plan out of cycle and
6 apparently targeting the Project.

7 Q Mr. Varney, did you or the Applicant submit
8 Newington's master plan with the Application?

9 A I believe it was a link to the Application --

10 Q Could you tell me --

11 A -- in the report.

12 Q Could you tell me where in the report or in the
13 Application or in your testimony that link
14 exists? Because I looked for it and I couldn't
15 find it.

16 A Well, they removed the master plan from their
17 website so there is no link anymore.

18 Q So I'm confused. I thought your testimony was
19 just that you or the Applicant provided a link,
20 some text in your report, that purported to be a
21 link to a website, and you filed that with the
22 Committee; is that correct?

23 A The link was removed at some time during 2015
24 prior to the filing.

1 Q So you didn't submit --

2 A So it wasn't, there was a link originally in the
3 report, and it was removed after they had made
4 that change and it was described in detail in
5 the report the change that had been made.

6 Q Well, Mr. Varney, are you familiar with the
7 SEC's Rule 301.09 that requires every Applicant
8 for certificate for site and facility to provide
9 a copy of the host community's master plan and
10 ordinances?

11 A It requires information about them, I believe.

12 Q Let's look at the rule. And there it is. Each
13 Application shall include information regarding
14 the effects of the proposed energy facility on
15 the orderly development of the region including
16 the views of municipal and regional planning
17 commissions and municipal governing bodies
18 regarding the proposed facility if such views
19 have been expressed in writing, comma, and
20 master plans of the affected communities and
21 zoning ordinances.

22 A It says information about master plans and
23 zoning ordinances, and the report describes it
24 in great detail.

1 Q Perhaps it's a matter of grammar, but it appears
2 to me that if, would you agree with me that a
3 comma between the word writing and master plans
4 indicates that the information that is supposed
5 to be submitted is one thing, and the documents,
6 master plans and the zoning ordinances, for
7 example, are two different things? Aren't they?

8 A Again, very detailed information was provided
9 about the master plan, and it's unfortunate that
10 the town removed the master plan from its
11 website where we normally would link it to that
12 given the volume of information and the fact
13 that most master plans have information that
14 much of it is about other topics, and so we
15 tried to zero in on the relevant sections that
16 would be of most interest to the SEC members or
17 any other reader in the public.

18 Q You said you met with the Town Planner. Did you
19 ask him for a copy of the Town's most recent
20 master plan?

21 A Again, we had a copy of the 2009 master plan
22 that covered the time period beyond today from
23 2010 to 2020 and so I certainly have a copy, a
24 paper copy of that now given that the link is

1 gone.

2 Q But you didn't, you didn't, once you saw that
3 the link had been removed, you didn't pick up
4 the phone and call the Town Planner or the Town
5 Administrator to ask for a paper copy of the
6 most recent version of the master plan so that
7 you could review it and submit it with the
8 Application?

9 A I would be surprised if there was not a link to
10 the master plan in the original Application.
11 I'd have to check.

12 Q Okay.

13 MS. GEIGER: Madam Presiding Officer, I
14 know that there's been an admonition not to make
15 record request, but I searched the record for
16 that link, and it is a clear requirement of the
17 Committee's rules that this information be
18 provided, and I respectfully ask for a record
19 request from the Applicant if they could just
20 maybe during the break point us in the direction
21 of where that link exists because I couldn't
22 find it.

23 PRESIDING OFFICER WEATHERSBY: Is there any
24 objection?

1 MR. NEEDLEMAN: I don't think so. We will
2 point the Committee to whatever there is in the
3 Application.

4 MS. GEIGER: Thank you.

5 Q Mr. Varney --

6 MR. PATCH: Madam Chair, I'm sorry to
7 interrupt. Doug Patch over here. We had the
8 same question of Mr. Varney, and although the
9 response wasn't, I think he also made reference
10 to a link. So if the Applicant is going to be
11 looking for the Newington link, perhaps they
12 could look for the link to the Durham master
13 plan as well. Thank you.

14 PRESIDING OFFICER WEATHERSBY: There's no
15 objection, Attorney Needleman?

16 MR. NEEDLEMAN: No objection to pointing to
17 the Application and showing the Committee where
18 things are.

19 PRESIDING OFFICER WEATHERSBY: Thank you.

20 MS. GEIGER: And that would be the link,
21 correct? "Things" to me could be anything. I'm
22 looking specifically for the link.

23 PRESIDING OFFICER WEATHERSBY: He's going
24 to inform the Committee, and, therefore, all

1 Intervenors and anyone else interested as to the
2 location of the link in the Application or
3 materials submitted by the Applicant to the
4 master plans of the Town of Durham and Town of
5 Newington.

6 MS. GEIGER: Thank you.

7 MR. NEEDLEMAN: I was just going to add
8 plainly there was a disagreement in the back and
9 forth which I'm not going to go back to, but
10 Mr. Varney was referring to information that he
11 submitted in support of his interpretation of
12 that provision, and that's what we will point
13 to.

14 MS. GEIGER: I understand, and I've read
15 that. I think he also testified that someone
16 provided a link to something, master plan,
17 hopefully, because that's required, and I just
18 want to know where that is in the record.

19 A (Mr. Varney) And I think it's important to point
20 out to the Committee that there was no link of
21 the changes relating to utilities and electric
22 lines on the town website. The master plan was
23 removed after they made the revisions to that
24 chapter, and I believe to this day there is no

1 link remaining for the Town's website, even
2 though there had been one originally, but the
3 original master plan would not have been
4 accurate due to the two different revisions that
5 came out subsequently and were somewhat
6 confusing given the way things evolved.

7 MS. GEIGER: Okay.

8 A (Varney) It's an unusual circumstance.

9 BY MS. GEIGER:

10 Q Sure. But let's shift gears a little bit in
11 terms of not this specific master plan but
12 generally speaking, are you aware that the Site
13 Evaluation Committee has recently found that
14 master plans represent the considered views of
15 the communities and should not be disregarded or
16 minimized in importance?

17 A They're important factors in consideration along
18 with many, many other factors.

19 Q But they shouldn't be disregarded or minimized;
20 is that correct?

21 A I hope not because I wrote about 150 pages of
22 information about all of this.

23 Q Would you agree that a town's master plan is
24 indicative of municipal governing bodies' and

1 planning bodies' views on town planning and
2 development?

3 A Are they -- excuse me again? Can you rephrase
4 that?

5 Q Sure. Would you agree that a town's master plan
6 is indicative of the municipal governing bodies'
7 and planning boards' views on town planning and
8 development?

9 A They're indicative of Planning Board views. Not
10 the governing bodies. They don't require a town
11 meeting vote. They're adopted by a voice vote
12 of the Planning Board at a meeting. In fact,
13 that's how the change was made on the utility
14 section. It was one meeting. There was a
15 notice of that meeting and they, I believe,
16 finalized the language at some point after the
17 meeting.

18 Q Are you familiar with the New Hampshire statute
19 that governs master plans?

20 A Yes, I haven't looked at it for a while but yes.

21 Q Put it up here for your reference. Isn't the
22 purpose of a master plan, according to this
23 statute, to set down as clearly and practically
24 as possible the best and most appropriate future

1 development of the area under the jurisdiction
2 of the Planning Board? Would you agree?

3 A Yes.

4 Q Would you agree that articulating as clearly and
5 as practically as possible the best and most
6 appropriate future development of an area is
7 equivalent to a plan for the town's orderly
8 development?

9 A No.

10 Q Why not?

11 A The master plan is aspirational in nature. It's
12 a general guide. And it is then implemented
13 through a whole host of measures including
14 zoning ordinance, subdivision regulations, site
15 plan review, founding of conservation
16 protection, and other means. It is not intended
17 to directly address orderly development which is
18 a broader topic. It's a term used by the SEC
19 and is not intended to be used as something
20 that's targeted at a specific project. It's
21 broader than that. It's a framework. It's an
22 overall framework rather than targeting a
23 specific development project that is being
24 proposed in a community.

1 Q According this statute, isn't another purpose of
2 the master plan to guide the Planning Board in
3 the performance of its other duties in a manner
4 that achieves the principles of smart growth,
5 sound planning and wise resource protection?

6 A Yes.

7 Q Would you agree that principles of smart growth,
8 sound planning and wise resource protection all
9 promote the orderly development of the region?

10 A They're factors in orderly development of the
11 region.

12 Q Sir, are you totally familiar with Newington's
13 master plan?

14 A I'm familiar with the master plan. I reviewed
15 it, and in particular, looked at aspects of the
16 plan that might in some way relate to the
17 Project.

18 Q Are you aware that Newington's master plan
19 contains a development policy that states that
20 the shorelines of Great Bay and Little Bay
21 should be protected?

22 A Yes.

23 Q Are you aware that the same development policy
24 states that several bald eagles are known to

1 winter along the Newington shore?

2 A I can't recall, but it wouldn't surprise me.

3 Q Okay. Did you communicate this information
4 about bald eagles from the Newington master plan
5 to any of the environmental consultants at your
6 company, Normandeau Associates, who are working
7 on this Project?

8 A Probably. I can't remember. It's been a long
9 number of years have elapsed since the Project
10 was first introduced. So I probably did. They
11 were addressing environmental issues, and the
12 fact that it was in the master plan was of
13 interest to me reading it, but they were
14 responsible for looking at the resources and
15 making sure working with Fish & Game and DES
16 that those resources were properly protected.

17 Q Did you ever communicate to Ms. Allen that the
18 master plan in Newington contained a provision
19 regarding bald eagles?

20 A I can't recall.

21 Q Okay. Now, turning back to your Supplemental
22 Prefiled Testimony at page 9, lines 24 to 30,
23 you indicated that you reviewed the Project in
24 relation to local master plans. Is that

1 correct?

2 A Would you restate that?

3 Q Sure. Your Supplemental Prefiled Testimony
4 indicated that you had reviewed the Project in
5 relation to local master plans. Is that
6 correct?

7 A Yes.

8 Q And same page, page 9, lines 29 to 30, you state
9 the Project design is consistent with and
10 supports the planning goals expressed in these
11 local master plans. Is that your testimony?

12 A Yes.

13 Q Bear with me. Now, are you aware that the very
14 first development policy listed in Newington's
15 master plan states that the protection of the
16 quality of the town's residential areas is
17 central to the master plan?

18 A Yes.

19 Q And are you aware that the stated purpose of
20 this policy is to ensure that the quality of
21 life in Newington's residential areas is
22 protected from incompatible uses?

23 A They try to, yes.

24 Q I'll put it up here for the Committee's view.

1 It's been marked as Newington's Exhibit 1-3.
2 Are you aware that Newington's master plan
3 states that electric transmission lines are
4 generally viewed as uses incompatible with
5 residential uses?

6 A In the original 2009 master plan, that was not
7 stated. That was one of the changes that was
8 made by the Planning Board about a month after
9 the January 2015 presentation.

10 Q That change that you just referred to, that was
11 made before the Application was filed, right?

12 A Yes.

13 Q Okay. So turning back to this section, would
14 you agree that currently this is Newington's
15 master plan's pronouncement on utility
16 easements? Not from 2009 but today, 2018? And
17 this has been marked as Newington's Exhibit 1.4.
18 Do you have it on the ELMO, Mr. Varney?

19 A Yes.

20 Q You can see it? Are you, based on your review
21 of this most current version of the master plan,
22 isn't it true that Newington's master plan
23 indicates that it has been the town's policy to
24 require land developers to place their electric

1 utility service improvements in the residential
2 district underground and that this policy should
3 also extend to transmission lines; is that
4 correct?

5 A Yes. That was a change made after the
6 presentation on this Project.

7 Q And isn't it true that Newington's master plan
8 again in this section states that under no
9 circumstances should utility infrastructure
10 improvements such as high voltage transmission
11 line should be permitted to be constructed
12 aboveground within existing easements that
13 bisect the heart of the residential district?
14 Is that not true?

15 A That's what it says.

16 Q And so this master plan in Newington is pretty
17 clear, isn't it, that a transmission line should
18 not be constructed aboveground within existing
19 easements that bisect the heart of the
20 residential district, correct?

21 A Yes, that was the change that they made.

22 Q Would you agree that the words "under no
23 circumstances" evidence a firm and absolute
24 standard?

1 A Excuse me? What was that question?

2 Q Would you agree that the words "under no
3 circumstances" evidence a firm and absolute
4 standard?

5 A I don't know.

6 Q Okay. Would you agree that this isn't guidance
7 or a recommendation or a suggestion, is it?

8 A This is a statement about utility easements that
9 was revised directly relating to the Project,
10 and it is their goal to see as much of the line
11 underground as possible if it's not possible to
12 put it through the wildlife refuge.

13 Q Mr. Varney, you've indicated in your testimony
14 orally here this morning and in your written
15 testimony that you made much of the fact that
16 Newington amended its master plan to address the
17 project; is that correct?

18 A Yes.

19 Q But this amendment to Newington's master plan
20 occurred over a year before the Application was
21 even filed with this Committee, correct?

22 A Approximately, yes.

23 Q Okay. So to refresh your memory, would you
24 agree that the current master plan utility

1 easement section that we just looked at on the
2 ELMO was revised February of 2015 and the
3 Application in this docket wasn't filed until
4 April of 2016; is that correct?

5 A Correct.

6 Q So in your Supplemental Testimony though --

7 A Although let me also state and clarify that the
8 version that was provided to the SEC by the town
9 was a different version than I had been provided
10 previously.

11 Q In your Supplemental Prefiled Testimony, page
12 10, lines 20 to 21, you state that Newington's
13 master plan suddenly deemed electric
14 transmission projects as incompatible with
15 residential uses; is that correct?

16 A Yes.

17 Q But are you aware that ever since Newington's
18 master plan was adopted in 2009, the master plan
19 has contained a provision that states that the
20 town supports improvements to electrical
21 transmission infrastructure outside the town's
22 residential district that would help to attract
23 electrical generating plants to Newington's
24 industrial waterfront. Were you aware of that

1 provision?

2 A I don't recall.

3 Q Let's take a look at it. It's been marked as
4 Newington's Exhibit 2-3. I apologize for the
5 delay, but I've got a lot of paper here.

6 So you indicated that you looked at an
7 older version of the master plan, right?

8 A The 2010 to 2020 master plan that was adopted in
9 2009.

10 Q Okay. And when you looked at that master plan,
11 you found this provision, right?

12 A That appears to be, this appears to be
13 different.

14 Q So you don't think that was in the 2010-2020
15 master plan that you looked at?

16 MR. IACOPINO: Do we have a page number?

17 A There are different sections of the chapter so
18 I'm just checking for accuracy.

19 MS. GEIGER: Page 3. Future land use page
20 3.

21 A My section, the 2010 version that I have seems
22 to have different wording.

23 Q So your version does not state the town supports
24 improvements to electrical transmission

1 infrastructure outside the town's residential
2 district?

3 A The version I have talks about it's relative to
4 utility easements.

5 Q That's a different section, Mr. Varney. This is
6 a section on electrical transmission lines. And
7 if you would accept, subject to check, and
8 Mr. Hebert can confirm when he testifies as
9 Chairman of the Planning Board that this is in
10 fact a provision from Newington's master plan
11 that has been in effect since 2009.

12 A I'm reading the, from the 2010 to '20 master
13 plan, it's page 1 is Public Utilities, page 2 is
14 Electricity.

15 Q I think that's a different section, and I won't
16 belabor the point, but would you accept, subject
17 to check, that this is a provision that is in
18 Newington's master plan and has been since 2009?

19 A I'd need to verify it.

20 Q Okay. So Mr. Varney, in terms of its geographic
21 size, how many square miles is Newington?

22 A Exact square miles, 8.2 square miles of land
23 area, 2016 population of 787, population density
24 of 96 persons per square mile, and a

1 right-of-way that's less than one percent of the
2 land area.

3 Q Mr. Varney, I'd like you to take a look at a map
4 that I believe you provided in your revised
5 report and this has been marked as Applicant's
6 Exhibit 146, attachment A, and this is page 98
7 of that PDF, but it's page A 79 of your report.
8 Does that map look familiar to you?

9 A Yes.

10 Q Would you agree that this map is taken from your
11 report?

12 A I believe so.

13 Q Now, on this map, the residential areas are
14 shown in yellow. Is that correct?

15 A Yes.

16 Q And the industrial and commercial areas are
17 shown in red; is that correct?

18 A Primarily. Yes. Commercial industrial.

19 Q Would you say that there is less land use for
20 residential purposes in Newington than for
21 industrial or commercial purposes?

22 A Probably. I'm not 100 percent sure.

23 Q With respect to other purposes, would you agree
24 that this map shows that the amount of

1 residential land in Newington is much less than
2 land use for all other purposes?

3 A I'm not sure if I could answer that accurately
4 given the size of the lots and the land area
5 that's included as part of residential. I know
6 the town's in the process now of preparing a new
7 existing land use map with the Rockingham
8 Planning Commission.

9 Q So you're not willing to concede that based on
10 the map that you provided to this Committee that
11 the residential areas marked in yellow appear to
12 be much less than other land uses in Newington;
13 is that correct?

14 A Yes. I would say that generally speaking, but
15 again, I haven't tried to make a calculation of
16 it. Generally speaking, everything on the east
17 side of the turnpike is, with the exception of
18 one residential area, is commercial and
19 waterfront industrial, and then, of course,
20 there's the Pease Development which is subject
21 to Pease Authority. And the remaining is
22 combination of forested lands, residential uses,
23 conservation lands, and some home businesses.

24 Q Are you aware that Newington hosts the natural

1 gas pipeline, two electric generating
2 facilities, a liquified propane gas facility,
3 and Pease Development, former Air Force base,
4 are you aware of that?

5 A Yes, I am.

6 Q Do you know of any other towns in the State of
7 New Hampshire that are the size of Newington
8 that host all of those facilities?

9 A Probably not.

10 Q None of these facilities that I mentioned run
11 down the middle of Newington's residence or
12 Historic Districts, do they?

13 A Excuse me?

14 Q None of the facilities that I just mentioned,
15 the natural gas pipeline, two electric
16 generating facilities, a liquified propane gas
17 facility, and Pease do not run down the middle
18 of Newington's residential and Historic
19 District, do they?

20 A No. The only utility that does, I believe,
21 would be the regional water line that crosses
22 Little Bay and comes into Fox Point from Durham
23 and Madbury and extends over to the water tower
24 near the turnpike. There's also some natural

1 gas service in the town. I believe the Town
2 Hall, police station, fire station are served by
3 natural gas.

4 Q And are those water lines and natural gas lines
5 aboveground or are they buried?

6 A They're underground.

7 Q Okay. Would you agree that consistent with
8 Newington's master plans goal of preserving
9 Newington's rural residential character that
10 Newington has done a pretty good job of keeping
11 energy infrastructure projects outside of its
12 residential district?

13 A I don't know.

14 Q Would you say that locating large energy
15 facilities outside Newington's residential and
16 Historic Districts is consistent with good land
17 use planning?

18 A I think there are many factors that were
19 involved in the siting of the facilities and so
20 I couldn't answer that question.

21 Q Would you say that locating large energy
22 facilities outside of Newington's historic and
23 residential facilities is consistent with the
24 orderly development of the region?

1 A When you're speaking of large energy facilities,
2 are you speaking of the power plants that are in
3 town?

4 Q Talking about large energy infrastructure.

5 A And the question about that infrastructure was?
6 Is it a good idea to have it where it's located?

7 Q The question was would you say that locating
8 large energy facilities outside of Newington's
9 historic and residential facilities is
10 consistent with the orderly development of the
11 region?

12 A Again, I didn't evaluate those, but I would say
13 that I was involved with one of those plants and
14 that construction was found to be consistent
15 with orderly development of the region. But
16 again, it was on its own merits.

17 Q And it was outside the residential district,
18 right?

19 A Yes.

20 Q The Seacoast Project is comprised of a 115 kV
21 high voltage transmission line and is proposed
22 to be located in an easement that runs through
23 Newington's residential and Historic Districts,
24 correct?

1 A Yes.

2 Q And on page 3, line 12, of your Supplemental
3 Prefiled Testimony, you state an existing
4 electric line ROW, right-of-way, is the
5 prevailing land use for the Project corridor,
6 correct?

7 A Yes.

8 Q But the existing electric line in the
9 right-of-way to which you refer is not a high
10 voltage transmission, is it?

11 A It's lower voltage.

12 Q It's a 34.5 kV distribution line, right?

13 A Yes.

14 Q And those are two things, the two different
15 things, a 34.5 kV line is different from a 115
16 kV high voltage transmission line, correct?

17 A And that's different from a 34.5 kV and that's
18 different from a larger direct current line.
19 Yes.

20 Q And isn't it true that those two facilities that
21 I just referred to perform different functions?

22 A Yes.

23 Q And isn't it true that those two types of
24 facilities are also different in size and

1 appearance?

2 A They can be, yes.

3 Q Did you review Mr. Raphael's visual simulations
4 in connection with preparing your testimony and
5 reports in this docket?

6 A Yes.

7 Q Could you please explain how the appearance of
8 the poles for this Project compare to the
9 existing poles that are in the distribution
10 right-of-way in Newington?

11 A They're taller.

12 Q How much taller?

13 A I believe they're -- I'd have to check, but I
14 believe they're about 75 feet or so tall. As
15 proposed.

16 Q And how tall are the existing distribution poles
17 in the right-of-way in Newington?

18 A Without looking it up, probably 40 to 45 feet
19 tall.

20 Q So subject to check, aren't some of the proposed
21 poles twice as high as the existing distribution
22 line poles?

23 A In some places they could be. Yes.

24 Q Isn't it true that the poles proposed for this

1 high voltage electric transmission line will be
2 larger in circumference than the poles that
3 currently hold the 34.5 kV line?

4 A Yes. They are larger.

5 Q On page, lines 20 to 23 of your Supplemental
6 Prefiled Testimony, you state that the Project
7 has been carefully designed to address the views
8 of local communities, the University of New
9 Hampshire, businesses and residents to help
10 ensure it is not incompatible with adjacent land
11 uses; is that correct?

12 A Yes. I believe that they've had over 20
13 meetings with the Town of Newington, over 40
14 meetings with Durham and UNH, 8 meetings with
15 Portsmouth, five meetings with Madbury, I
16 believe 110 landowners they've met with
17 including over 100 face-to-face meetings. So
18 they've worked very hard to try to address
19 concerns in the community and with the abutters
20 for this Project.

21 Q But the Project design does not completely
22 address Newington's concerns, does it?

23 A No. I believe Newington based on the testimony
24 that's been provided would prefer to see it

1 located underground, and currently, I believe
2 about 45 percent or so of the residential
3 district is underground but not 100 percent.

4 Q Mr. Varney, I believe you just said that
5 Newington would prefer that the line be
6 underground in the entirety. I won't put words
7 in your mouth, but I think you used the word
8 prefer. Is that correct?

9 A Yes. If they were not able to locate it in a
10 national wildlife refuge where they don't have
11 any rights and where the wildlife refuge manager
12 told the Planning Board directly that it was not
13 acceptable to locate the facility on the refuge
14 property.

15 Q And that's because Newington's master plan says
16 that a high voltage transmission line is
17 incompatible with residential land and should be
18 buried, right? That's not a preference.

19 A They offered an opinion that it was incompatible
20 and so in recognition of the fact that there
21 were concerns about overhead within the
22 right-of-way in Newington, they went underground
23 through Gundalow Landing, they went underground
24 under Little Bay Road, they moved the transition

1 structure further back at the Flynn Pit in
2 cooperation with the town and at their
3 suggestion.

4 They modified the line designs, they
5 relocated poles to lower the number of views for
6 the Project. They secured approvals with the
7 federal government and the County Conservation
8 District and the Frink family and the town to
9 locate underneath the Frink Farm and the
10 Historic District to go underneath Nimble Hill
11 Road, to go through the existing right-of-way at
12 Hannah Lane underground and to remove overhead
13 structures that are located in the field at the
14 Frink Farm and where it crosses Nimble Hill Road
15 and is overhead behind the homes at, some homes
16 at Hannah Lane.

17 So a number of design changes have been
18 made, considerable extra expense to try to
19 address as much of the concern as they feel that
20 they can. I think it's a commendable effort on
21 the part of the Applicant to try to take the
22 concerns seriously and to work so hard to try to
23 address the concerns as they've also done in the
24 other three communities, none of whom stated

1 that the Project was not orderly development or
2 inconsistent with their master plans, nor did
3 either of the two regional planning commissions.

4 Q Were the master plans in those other communities
5 that you just referred to, did they contain
6 provisions that require burial of high voltage
7 transmission lines?

8 A I do not -- none of them amended their plans to
9 insert that provision, no.

10 Q Do those master plans say anything about high
11 voltage transmission lines?

12 A There's some language about electric utility
13 lines, but nothing targeted at the Project.

14 Q Okay. Now, you say on page 4, lines 18 to 19 of
15 your Supplemental Prefiled Testimony, that the
16 addition of the Seacoast Reliability Project to
17 the existing right-of-way will not change the
18 character of adjacent land uses. Is that
19 correct?

20 A Yes.

21 Q What about the character of the easement itself?
22 Will that change as a result of the installation
23 of this Project?

24 A It will be an electric line corridor before and

1 an electric line corridor afterwards. The
2 structures will be taller. There will be
3 incremental height difference. But the use, the
4 land use itself is staying the same.

5 Q So you see no difference between using land for
6 a 34.5 kV distribution line and using that same
7 land for a 115 kV high voltage transmission line
8 with higher poles and wider poles or larger
9 poles, you see no difference in a land use
10 perspective?

11 A From a pure land use basis, there's no change in
12 the land use and there's no reason to expect
13 that the Project would change land uses around
14 the Project. In contrast, an Applicant could be
15 seeking approval from the SEC to go
16 cross-country across a community where there's
17 no existing right-of-way and that would be a
18 different situation. And in this case, they're
19 trying to locate the Project within an existing
20 right-of-way where the use continues as an
21 electric line corridor and will meet the
22 regional needs of the Seacoast region which has
23 been obviously rapidly growing and in need of
24 reliable electric service.

1 Q So is there any point at which the installation
2 of new structures, large or taller high voltage
3 transmission structures within the existing
4 easement in Newington would cause you to say
5 that a Project would be inconsistent with the
6 orderly development of the region?

7 A In terms of the specifics of this Project and
8 the facts associated with this Project, I think
9 it's a reasonable use, and it's not uncommon for
10 a line to have increased voltage in it as needs
11 for electricity increase in the same way that
12 it's not unusual to see traffic on a roadway
13 increase as there's more demand for using that
14 roadway.

15 Q Speaking of roadways, would you agree that
16 there's a difference between a local road, a
17 town road and an interstate highway?

18 A Yes, I would. Obviously, they serve different
19 purposes.

20 Q And you indicated that, I believe your testimony
21 is that you don't think that the character of
22 the easement would change by virtue of this
23 Project; is that correct?

24 A That's correct.

1 Q If the line were buried in the easement,
2 vehicles would still be able to pass over that
3 property, correct? If there were a road to be
4 constructed over the line, that could happen,
5 right?

6 A Yes.

7 Q Now, on page 5, lines 1 to 2 of your
8 Supplemental Prefiled Testimony, you say that
9 the Project will not be highly visible to local
10 residents who travel on residential roads near
11 the Project corridor; is that correct?

12 A Yes.

13 Q Are you familiar with or do you recall the views
14 of the Project location from the eastern portion
15 of Nimble Hill Road as it parallels the field
16 near the Frizzells' home and near the school
17 along Fox Point Road?

18 A Yes.

19 Q Did you attend the site visit of this area this
20 past summer?

21 A No, but I visited the site myself on multiple
22 occasions.

23 Q Would you agree that the field seen near the
24 Frizzells' home is one of the scenic views that

1 you can observe from the road as you enter and
2 travel into town?

3 A It's a -- there's an openness feel to it, and I
4 think there are varying opinions about how
5 scenic it is. I believe that would be a good
6 question for Mr. Raphael who did do a
7 supplemental review of the view looking from
8 Nimble Hill Road across that field. As you
9 know, one of the structures has been relocated
10 to reduce visibility. As you also know, there
11 are, there's an existing line that's already
12 there that's visible --

13 Q But would you agree that --

14 A -- off in the distance. Sorry.

15 Q Would you agree that the view at the Frizzell
16 property will become more pronounced with the
17 leaves off the trees?

18 A I didn't do a leaf-off/leaf-on analysis.

19 Q Now, on page 6, line 3, of your Supplemental
20 Prefiled Testimony, you state that the Project
21 will be located underground through the Frink
22 Farm property which is part of the Newington
23 Center National Register Historic District,
24 correct?

1 A Yes.

2 Q But isn't it true that a transition structure
3 will be located on the Frink Farm property?

4 A At the very edge of the property, the western
5 edge of the property. It will then transition
6 underground as you're traveling east.

7 Q But that transition structure will be on the
8 Frink property, right?

9 A Yes. I believe so. Right on the edge or close
10 to the edge.

11 Q Do you know what the final decision plans for
12 this transition structure look like?

13 A I saw a simulation by the visual expert, Mr.
14 Raphael.

15 Q Now, on page 6, lines 13 to 15, of your
16 Supplemental Prefiled Testimony, you describe
17 interpretive displays for Durham and Newington
18 and chimney restoration projects that would
19 serve as mitigation for impacts to historic
20 resources; is that correct?

21 A Yes.

22 Q But the Town of Newington has not agreed to
23 these mitigation measures, has it?

24 A I'm not sure of the status of them. I know

1 they've been offered, and I know that the, from
2 a historic perspective they've gone through the
3 106 federal process and they have an MOA with
4 the U.S. Army Corps of Engineers and an MOU with
5 the Department of Historical Resources with the
6 state, and whatever they do will be subject to
7 their review and approval.

8 Q Would you agree that burying the transmission
9 line is an effective mitigation step for
10 addressing impacts to sites that are
11 architecturally historic?

12 A Could be. Yes.

13 Q On page 12, lines 28 to 29 of your Supplemental
14 Prefiled Testimony, you indicate that the
15 Project team will work with the Town of
16 Newington on the relocation of the distribution
17 line to the local roadways. Is that correct?

18 A That's my understanding is that they intend to
19 do that which would eliminate the existing
20 distribution line and result in a net
21 improvement for the Hannah Lane neighborhood and
22 for the views at Nimble Hill Road and the Frink
23 Farm.

24 Q Are you aware that Newington's roads west of the

1 Spaulding Turnpike have been designated as
2 scenic roads?

3 A Yes. I described that in detail in my report.

4 Q Are you aware that the scenic roads include
5 Gundalow Landing, Little Bay Road, Old Post
6 Road, Nimble Hill Road and Fox Point Road?

7 A Yes.

8 Q Are you familiar with all the locations where
9 the existing distribution line in Newington will
10 be moved?

11 A My understanding is that it would be the Frink
12 Farm area and the Hannah Lane area.

13 Q Those lines will be moved from those locations.
14 Where will they be moved to?

15 A I believe to existing structures along the
16 roadway where there already are structures.

17 Q Which roads would those be?

18 A I believe that would be Little Bay Road and
19 Nimble Hill Road.

20 Q Both of those are scenic roads, right?

21 A Yes. And they go under both of those roads with
22 the Project rather than overhead.

23 Q Now, for the overhead, there will be some
24 overhead distribution lines moved to roadways in

1 Newington, correct?

2 A They've offered to do that, yes.

3 Q And have you examined what these relocated lines
4 would look like?

5 A No. My understanding was that they've offered
6 to do that, and assuming that that would be
7 viewed favorably, I think it would likely move
8 forward in concert with the town.

9 Q Will the relocated lines necessitate the
10 installation of taller poles along the roadways
11 in Newington?

12 A Not that I'm aware of.

13 Q Have you studied whether relocating the
14 distribution lines in Newington will unduly
15 interfere with the orderly development of the
16 region?

17 A No, but I don't see any reason why it would
18 interfere.

19 Q Lastly, generally speaking, do you believe that
20 it would be more consistent with the orderly
21 development of the region to construct a high
22 voltage transmission line in a corridor where a
23 high voltage transmission line already exists or
24 to construct the high voltage transmission line

1 in a distribution line corridor?

2 A Again, I don't know if there's an option, a
3 viable option on the table for that.

4 MS. GEIGER: Madam Presiding Officer, I
5 think those are the questions I had, but I would
6 appreciate a moment just to check with my client
7 to just make sure if there's anything else. Is
8 that possible?

9 PRESIDING OFFICER WEATHERSBY: Yes. You
10 may take a moment.

11 MS. GEIGER: Thank you very much.

12 (Brief recess taken)

13 BY MS. GEIGER:

14 Q Mr. Varney, I just want to clarify, who is the
15 Town Planner from Newington that you met with?

16 A Tom Morgan was the planner at the time, and we
17 met on March 23rd, 2015. There was a member of
18 the Outreach Team from Eversource with me, and
19 we met at the Town Hall and then went out and
20 toured the areas. My understanding was that
21 there was at that time some consideration by the
22 Planning Board to look at a different route
23 within the town, but that was not popular and
24 that I was provided at that time with the new

1 version of the utility section which was in
2 response to a question in which I asked if there
3 were any changes that I should be aware of in
4 the master plan and was provided with a version
5 that was different than what was submitted to
6 the SEC three years later.

7 Q And based on your review of that newer version,
8 isn't it true that there was only one change
9 made to the Newington master plan since the
10 earlier version and that was the provision that
11 you cited, isn't that right?

12 A The only change was the utility section of the
13 master plan and so there were, in essence the
14 wording, there were three different wordings of
15 that section. There was the original version,
16 the version I was provided in 2015 and had no
17 inkling that there was any other wording change
18 associated with it, and then found that there
19 was a new revised version that I was totally
20 unaware of that was not online, was not on the
21 town's website and was provided as an attachment
22 in a submission to the SEC.

23 Q Did you ever meet with Gerry Coogan who is
24 Newington's current Town Planner?

1 A Yes. I met with him before one of the public
2 hearings was held in the Town Offices and have
3 followed the efforts of the town to update their
4 master plan which is now in the works. They
5 completed a visioning process in November of
6 2017 --

7 Q Thank you, Mr. Varney, but that's not really
8 responsive to my question.

9 A Okay.

10 Q Lastly, were you aware that the existing
11 distribution right-of-way that currently runs
12 through Newington where this Project is proposed
13 to be located was put there by the Air Force in
14 1952 and taken by eminent domain?

15 A Yes. I'm very familiar with the relationship
16 between the PDA and the town and some of the
17 issues that were associated with development of
18 the base and the operation of the base.

19 Q So would you agree that the town did not
20 voluntarily elect to install an electric line
21 through the middle of its residential district?

22 A I don't have any detailed information about that
23 other than that the line has been there for
24 many, many years.

1 Q Thank you. I have no further questions.

2 PRESIDING OFFICER WEATHERSBY: Thank you.

3 Attorney Brown?

4 **CROSS-EXAMINATION**

5 **BY MS. BROWN:**

6 Q Good morning, Mr. Varney. I'm Marcia Brown, and
7 I represent Donna Heald.

8 A Good morning.

9 Q I just have a few questions. I want to get back
10 to, people have been asking you about definition
11 or your opinion that included that the Project
12 will not unduly interfere with the orderly
13 development. With respect to the term unduly,
14 do you have a working definition that you use
15 for that?

16 A I don't, but unreasonably and that due
17 consideration has been given to a wide range of
18 factors as are established in the SEC rules.

19 Q And so when I believe you were being
20 cross-examined by Attorney Patch, you were using
21 the word "significant," that there would be no
22 significant interference with orderly
23 development. Do you recall that testimony
24 generally?

1 A Yes. I believe we were talking about
2 construction impacts and that there would not be
3 any significant impact during that process.

4 Q And so would it be true as with the definition
5 of unduly that your definition of significant is
6 based on an assessment of overall information,
7 that there's no bright line?

8 A Correct. It was, again, following the SEC
9 guidelines and reviewing a significant amount of
10 information about the route and about town
11 planning and zoning.

12 Q One last question on discerning this difference.
13 I recall from the Alteration of Terrain permit
14 that there's about 1.7 million square feet of
15 disturbance. Is there a range of square foot
16 disturbance that would tip the scale between
17 whether something is not unduly to being unduly?

18 A No, in the sense that it's under the
19 jurisdiction of the New Hampshire Department of
20 Environmental Services and the Army Corps of
21 Engineers and would need to meet all of their
22 standards and requirements and conditions in the
23 permits.

24 Q So did those permit approvals factor in your

1 decision or your opinion, rather, on whether the
2 Project did not unduly interfere with the
3 orderly development?

4 A I reviewed the factors that are in the SEC rules
5 regarding orderly development, and I also
6 considered the fact that the Applicant is
7 required to have permits and approvals from
8 federal and state agencies with jurisdiction
9 over certain issues.

10 Q Let me approach it one more time. So is it the
11 fact that there's a permit approval, did your
12 opinion, did you base your opinion on whether
13 the Applicant received permit approvals?

14 A That the Applicant had applied for approvals and
15 that the agencies were indicating that they were
16 going to issue permits for the Project with a
17 number of conditions that would ensure that
18 public health and the environment was protected
19 according to their rules and regulations. In
20 other words, they would fulfill their
21 responsibility as a state and federal agency to
22 do their job.

23 Q So those permits that you just mentioned and the
24 conditions, you considered those in forming your

1 opinion that --

2 A I considered the fact that they would be
3 required to go through a rigorous process with
4 the federal and state agencies and that
5 ultimately their permits and approvals would be
6 necessary in the final decision by the SEC.

7 Q So that's a yes?

8 A So that's a yes that they, that was a
9 consideration. Yes.

10 Q In your opinion.

11 A Yes.

12 Q Thank you. With respect to your reference to
13 Mr. Chalmers and Mr. Raphael, was your opinion
14 formed in part based on their work?

15 A For Mr. Chalmers, yes. And for David Raphael, I
16 did review his reports, but I don't believe that
17 Visual Assessment was part of the SEC's
18 criteria, but I did review his information with
19 great interest.

20 Q So I'd like to just discern whether Mr.
21 Raphael's work -- or actually let me rephrase
22 this.

23 Was your opinion of the "not unduly
24 interfere with orderly development," was it

1 based in part at all on Mr. Raphael's work?

2 A No, but I was aware of his work and read his
3 report.

4 Q Now, you had included his reference to his
5 report and conclusions in your testimony. Was
6 that for just informational purposes?

7 A Part of it was related to the question that I
8 received during another proceeding which was
9 relating to the potential effects on tourism as
10 it relates to visual impact, and so I read with
11 interest in instances where there was a regional
12 recreational use or tourism oriented use was the
13 project going to result in a significant visual
14 impact, and so on top of my own review of the
15 information, I reviewed the information by a
16 highly qualified expert.

17 Q So with respect to your opinion then, is the
18 Site Evaluation Committee supposed to ignore
19 your references to Mr. Raphael as support for
20 your opinion?

21 A It was simply to provide factual information
22 that related to the topic that I was discussing
23 in that portion of the report that -- and so I'm
24 not suggesting that they ignore anything in my

1 report. I hope they'll read it very carefully.

2 Q What I'm trying to get to is your reliance, in
3 forming your opinion what did you rely on, and
4 you've got this reference to Mr. Raphael in your
5 testimony, and my question to you is does it
6 support your opinion or not?

7 A Yes. It does.

8 Q Okay.

9 A But it wasn't a deciding factor.

10 Q That's fair. Thank you.

11 So with the permits, permit approvals,
12 references to Mr. Chalmers' work or Mr.
13 Raphael's work, if there are any changes in
14 those, that would affect your opinion? Is that
15 correct?

16 A None that I'm aware of.

17 Q So none of the changes by any of the underlying
18 documents or permits, Mr. Chalmers' work that
19 you cited, in Mr. Raphael's work that you cited,
20 if changes happened at that level it would not
21 impact your opinion?

22 A Well, I reviewed Mr. Chalmers' Supplemental
23 Testimony and that was a factor in my review as
24 was the economic analysis and the land use

1 issues associated with the Project.

2 Q So what I'm trying to get at is if there are,
3 what you're saying then is that, if there are
4 changes in Mr. Chalmers' conclusions that will
5 not impact your opinion? Is that what I'm
6 hearing you say?

7 A I reviewed his Supplemental Testimony and
8 considered that in my conclusion, and it's
9 clearly stated.

10 Q Okay. So with respect to Mr. Chalmers, if there
11 were any changes in his opinion or changes in
12 what he reviewed, that would affect potentially
13 your opinion, correct?

14 A I can't speculate. Depends on the nature of the
15 change.

16 Q Understood. Okay. If Mr. Chalmers had an error
17 in his report that was the basis of his opinion,
18 would you agree that that error would flow
19 through to your opinion?

20 A I can't speculate, and it would depend on
21 whether or not that error changed his overall
22 conclusions, and the overall data set upon which
23 he's based his opinion.

24 Q Now, I'd like to move on to a different subject.

1 This is about the corridors and your opinion
2 that the land use will not change in those
3 areas. You're nodding your head so you're
4 familiar with that portion of your opinion?

5 A Um-hum.

6 Q Now, the corridors include the right-of-ways,
7 correct?

8 A Yes.

9 Q And in your testimony you have mentioned that
10 the right-of-ways provide suitable habitat for
11 wildlife. Do you recall that?

12 A Yes.

13 Q And I believe or in your testimony you also
14 cited, if you recall, that the right-of-ways
15 will be restored after construction? Do you
16 recall that?

17 A Yes.

18 Q And question to you on if a homeowner elects to
19 keep the construction road, that would result in
20 a change in use in the right-of-way, correct,
21 for their property?

22 A I don't know. I need to look at the specifics.

23 Q Well, the specifics would be if you have a
24 right-of-way across a property that is presently

1 wildlife habitat and it is left as a
2 construction road, would you consider that a
3 change in use?

4 A The use would continue to be an electric line
5 corridor, and within that there are different
6 uses, and other types of uses such as wildlife
7 benefits that are associated with that, with
8 electric lines. There are many examples of
9 electric line corridors that have driveway
10 access within them, and it's never to my
11 knowledge been considered any significant change
12 in use.

13 Q What I am trying to get at is for, you asked for
14 specifics. I have a specific parcel, and if it
15 is no longer wildlife habitat after construction
16 but remains as a construction road, do you
17 consider that to be a change in use for that
18 particular section of right-of-way?

19 A That again would be I believe up to the
20 landowner, and if it's an easement across land
21 and it's owned by a private individual, and they
22 are electing to have a driveway access across
23 the right-of-way, that would be an election by
24 the property owner themselves.

1 Q Correct, but as to your opinion that there would
2 be no change, would you consider that habitat
3 conversion to road postconstruction to be a
4 change in use?

5 A Yes. It would be not an overall change of use
6 of the corridor, but in that specific location
7 it very well could be just like a person could
8 have other uses within the right-of-way as long
9 as it's an allowed use in the community and they
10 own the land and it's not interfering with the
11 utility as it relates to their easement and
12 their rights, then I think there are lots of
13 examples in which landowners have elected to do
14 different things at different times on their
15 land.

16 Q Now, with respect to your opinion that these
17 corridors will not change land uses in the area,
18 we do not have a quantification of this change
19 in land use from homeowners electing to keep
20 construction roads, correct?

21 A I have no knowledge of how many homeowners want
22 to have --

23 Q Sorry to interrupt you. And your opinion is
24 based on the resources being restored, correct?

1 A The assumption is that they would be restored
2 and if someone had a woods road or a road that's
3 typically found on farmland that's unpaved road,
4 it would not change the use to any great degree.

5 Q Thank you. I'd like to turn to Exhibit 146.
6 I'm going to try to use the ELMO for the first
7 time here.

8 I'd like to bring your attention, this is
9 page 8 of 16 on Exhibit 146, and you are asked
10 at the bottom of this page, will construction
11 and operation of the Project have an adverse
12 effect on businesses. Do you recall that?

13 A Yes.

14 Q And on line 28, you state that the project will
15 not have any adverse effect on businesses,
16 correct?

17 A Yes.

18 Q Then continuing on it says, you say, there are
19 only a few areas where the project crosses or is
20 adjacent to businesses, and in Durham the
21 Project is located underground and across the
22 railroad tracks from the UNH Dairy Bar.

23 Continuing on at the top of page 9,
24 restaurant/Amtrak station. And then the next

1 sentence is a gardening business is also located
 2 on Longmarsh Road within the right-of-way. The
 3 Applicant has been coordinating with the
 4 gardening business owner to address the business
 5 concerns and minimize potential impacts.

6 So with respect to that paragraph of your
 7 testimony, when you say that there will be no
 8 adverse impact because there are only a few
 9 areas where the Project crosses the businesses,
 10 are we to interpret that that you mean that
 11 there is no adverse effect on businesses because
 12 there are just a few businesses that are
 13 adversely impacted?

14 A No. There are very few businesses along the
 15 right-of-way, but what I'm referring to is the
 16 fact that in this particular instance of the
 17 gardening business that the Applicant has
 18 offered to work with the property owner who has
 19 a plant growing business and is growing plants
 20 within the right-of-way, and I listened to her
 21 during the Technical Session and I know that
 22 there have been numerous meetings between the
 23 Applicant and that homeowner over the past few
 24 years and that they do not want to have any,

1 they want to keep her whole in terms of not
2 having an effect on her ongoing operations.

3 They've talked about relocating some plants
4 and looking at different options and every
5 indication that I've seen has been that the
6 Applicant is more than willing to work with this
7 individual property owner to ensure that that
8 individual will not lose income and will not
9 have an adverse effect, there will be no adverse
10 impact on that business on that homeowner.

11 Obviously, there will be construction
12 impacts that are well documented in her Prefiled
13 Testimony, and every indication that I've seen
14 on the record has been that the Applicant is
15 trying to work with her as best they can and to
16 avoid impacts, and if there are certain things
17 that can't be avoided, that they would address
18 those in a proper way.

19 Q So I just want to recap on your statement that
20 because there are only a few areas where the
21 Project crosses the businesses, when you're
22 making the assessment that it will not have any
23 adverse effect, are you saying that is because
24 that the few areas will be fully mitigated?

1 A That they will try to avoid and minimize
2 construction impacts. That construction impacts
3 will be localized and temporary and that they'll
4 make every effort to address those issues, and I
5 believe they also have discussed a process for
6 dispute resolution should there be any alleged
7 loss of business or concerns arising out of the
8 construction process to make sure that that
9 business is not adversely affected.

10 Q So that would be a yes?

11 A Yes.

12 Q Do you need to hear my question again?

13 A Yes.

14 Q So with your opinion that there is no adverse
15 effects on business because there are only a few
16 areas where the Project crosses businesses, we
17 are to interpret that that it's not that there
18 are just a few businesses that will be impacted
19 adversely, but that the Applicant intends to
20 fully mitigate the harms, is that accurate?

21 A It's both.

22 Q Thank you. Have you been to Ms. Heald's
23 property?

24 A No, but I've been by her property because I've

1 hiked the trail in that area.

2 Q I believe I'm done. I'd just like to consult my
3 client. Thank you.

4 (Brief recess taken)

5 BY MS. BROWN:

6 Q I do have one last question.

7 With respect to mitigation, are you aware
8 of the extent of mitigation that would need to
9 occur with the gardening business?

10 A Yes. It was very well explained by your client.
11 Yes.

12 Q Okay. Thank you.

13 PRESIDING OFFICER WEATHERSBY: Okay. Let's
14 take a 15-minute break. We'll be back at 11
15 o'clock and hear from Counsel for the Public.

16 (Recess taken 10:45 - 11:00 a.m.)

17 PRESIDING OFFICER WEATHERSBY: We'll get
18 started again. Attorney Aslin.

19 MR. ASLIN: Thank you, Madam Chair.

20 **CROSS-EXAMINATION**

21 **BY MR. ASLIN:**

22 Q Good morning, Mr. Varney. How are you?

23 A Good morning.

24 Q For the record, my name is Chris Aslin. I'm

1 acting as Counsel for the Public in these
2 proceedings. As I understand it, your testimony
3 covers a number of topics, and those include the
4 effects on land use, municipal views, tourism,
5 and then sort of an overall look at orderly
6 development of the region; is that fair?

7 A Yes.

8 Q Okay. For the last of those, the orderly
9 development of the region, you rely on expert
10 opinions of some of the other witnesses in this
11 proceeding; is that correct?

12 A Yes.

13 Q And that includes Dr. Chalmers and Shapiro, and
14 did you also rely on Ms. Fraser for part of your
15 overall opinion?

16 A I did. Yes.

17 Q Okay. And then you had a little bit of a
18 discussion with Attorney Brown about Mr.
19 Raphael's testimony. Sounds to me like you
20 didn't necessarily rely on his testimony but
21 that you used some of the information from his
22 report?

23 A Yes. To help inform the reader.

24 Q Okay. And did I hear you earlier say that that

1 related primarily to tourism?

2 A Tourism and regional recreation. Yes.

3 Q With regard to those portions of your overall
4 opinion on orderly development of the region
5 that rely on other expert opinions, are you
6 offering an independent opinion on those or is
7 it just built on those other experts?

8 A I reached my own conclusions, but I read and
9 accepted the reports that were by Dr. Shapiro
10 and Dr. Chalmers.

11 Q So your opinion is on orderly development of the
12 region, but you don't have an opinion about
13 property values per se.

14 A No.

15 Q And similarly, the economic effects of the
16 Project?

17 A Or the taxation.

18 Q Or the taxation. Thank you. Okay. Just wanted
19 to lay the ground work of what is your opinion
20 and what's other experts' opinions.

21 With regard to the effects on land use
22 portion, so stepping back from orderly
23 development and focusing on land use, the
24 rule -- so you do see on the screen the rule

1 pertaining to orderly development of the region?

2 A Yes.

3 Q And that's Site 301.09. Do you see that?

4 A Yes.

5 Q Okay. And then part A of that rule is land use
6 in the region?

7 A Yes.

8 Q Okay. And so what I want to ask you about is
9 the two subparts to section A which are 1 and 2
10 and it asks first for a description of the
11 prevailing land uses in the affected
12 communities. What do you take that to mean?

13 A To review the land and how it's used along the
14 Project corridor so that would include, in the
15 case of an existing right-of-way it would talk
16 about land uses within the existing right-of-way
17 as well as a description of uses near the
18 right-of-way. If it were a cross-country
19 project, there would be actually a change in use
20 where if there was not an existing corridor and
21 they would be converting land to an electric
22 line corridor in that location. So there would
23 be a change in use there, but in the use of an
24 existing corridor, the corridor is already used

1 for electric service by an electric utility
2 where they have legal rights and so that land
3 use continues.

4 Q Okay. But with regard to the specific piece of
5 this rule, a description of the prevailing land
6 uses, I think you said for an existing corridor
7 it's both to use in the corridor and in the
8 adjacent areas?

9 A Yes. So for the corridor itself, the prevailing
10 land use would be as an electric line corridor
11 as the use, and then a utility use typically,
12 and in most communities that's less than one
13 percent of land use in a community, and it's
14 classified as that in most town master plans,
15 almost every town master plan that I've seen.

16 And then outside the corridor there's a
17 review of the various uses and most electric
18 utility lines go through a wide variety of areas
19 with forestry, agriculture, residential,
20 commercial, industrial. Usually doesn't go
21 through one specific type of area. It's usually
22 a mixture of uses.

23 Q Okay. Thank you. In your review of the
24 prevailing land uses, did you look to the entire

1 communities, not just near the corridor but the
2 land uses throughout the towns involved?

3 A Yes. I looked at their existing land use maps
4 and their zoning maps.

5 Q Okay. Thank you. Now, part 301.09(a)(2) asks
6 for a description of how the proposed facility
7 is consistent with such land uses and how the
8 proposed facility is inconsistent with such land
9 uses so it seems to be asking for two sides of
10 the coin. Would you agree with that?

11 A Yes.

12 Q All right. And what I'd like to understand from
13 you is in performing your review and coming to
14 your conclusion in this case, what kinds of
15 things do you deem to be consistent with a land
16 use, an adjacent land use, and what kind of
17 things are inconsistent?

18 A The first thing that I would look at is the
19 context of the corridor itself and what uses
20 have occurred along that corridor and whether or
21 not those uses would be able to continue as a
22 result of the Project, and in effect with an
23 existing corridor you're not converting land
24 use, you're continuing the existing local

1 pattern of development, and many of the uses
2 along that corridor have been there for many
3 years. Some built or bought property along that
4 corridor knowing that an electric line corridor
5 was there. And then to look at how, if the
6 Project were built, the proposed facility were
7 built, would it somehow interfere with their
8 ability to continue with those land uses in the
9 future.

10 Q Okay. So sounds like your kind of choice point
11 is will adjacent land uses be prevented from
12 continuing based on whatever is proposed by the
13 Project.

14 A Correct.

15 Q And when you say an adjacent use is only able to
16 continue -- let me rephrase it.

17 Do you consider whether adjacent land uses
18 may be affected in some way that is less than
19 preventing them from continuing?

20 A Yes. In listening at hearings, reviewing the
21 uses that exist that I can identify, and reading
22 the record, I look at it very carefully and try
23 to consider whether or not the Project would
24 prevent them from continuing that use in the

1 future. And if there are issues, what kind of
2 issues might they be.

3 Q Let's try a specific example. Let's use the
4 transmission line next to a residential
5 property, and I think what I'm hearing is if you
6 continue to live in the residence next to a
7 transmission line, then there's no, it's not
8 inconsistent with that use in your purview.

9 A It's an electric line corridor before and after
10 the Project. There's no change in use.

11 Q Right. So what I'm hearing is you don't make a
12 distinction between the sort of quality of the
13 use that may be diminished by the Project as
14 long as that diminishment doesn't come to the
15 level of actually preventing that use.

16 A No. And I think the inclusion of an expert on
17 property values is one of the reasons why that
18 is separated out as a topic.

19 Q Okay. Thank you. So stepping aside from this
20 Project in particular but with energy facilities
21 in general, what kinds of things would prevent
22 adjacent land uses from continuing?

23 A It could be an impact as it relates to noise,
24 operation of a facility. It could be an air

1 quality concern. Keep in mind that the SEC
2 rules relate to a wide variety of energy
3 facilities including power plants, wind farms
4 and other types of uses. So as it relates to an
5 electric line corridor, once it's constructed,
6 it's relatively stationary and doesn't generate
7 a lot of impacts associated with operation of
8 the facility and maintenance of the line.

9 Q Okay. So let's take noise as an example, just
10 to dive in a little deeper.

11 A Sure.

12 Q Would you agree that noise can range from an
13 annoyance to sort of unlivable?

14 A Yes.

15 Q And is it only when you get to the unlivable
16 stage that a noise impact would prevent an
17 adjacent land use, say residential land use?

18 A I haven't tried to create a bright line.
19 Generally speaking, the New Hampshire
20 legislature for small wind development for
21 example has a 55 decibel limit as being
22 reasonable. An existing transmission line in
23 terms of its operation doesn't come close to
24 that kind of level, for example.

1 Q Understand. And I don't want to get bogged down
2 in the specifics of this Project. I was just
3 trying to understand your interpretation of the
4 rules and how you applied that in this case or
5 in any case but eventually in this case.

6 So I think you're saying with regard to
7 noise that as long as the level of noise is
8 reasonable, it wouldn't prevent adjacent land
9 uses?

10 A Right.

11 Q Okay. And same thing with the emissions,
12 emissions that maybe is coming from a power
13 plant, for example, so long as they're meeting
14 standards, then they're not preventing adjacent
15 land uses?

16 A Right.

17 Q Do you have a similar position with regard to
18 visual impacts?

19 A There's a visual consultant, an expert who has
20 conducted a Visual Assessment consistent with
21 the SEC rules and guidelines.

22 Q Yes. I understand that. But with regard to
23 your assessment of land use and whether a
24 Project is consistent or inconsistent with

1 adjacent land uses, is there any situation where
2 a visual impact would be so large that it would
3 be inconsistent with adjacent land uses?

4 A Hard to speculate. In the case of this Project,
5 I realize that there's an increase in the height
6 of some of the overhead structures that are
7 along the line, but I don't find them to reach a
8 level of having a significant adverse effect on
9 adjacent land use. There's an incremental
10 increase in the height of structures but the use
11 remains the same. There's a power line there
12 now, and there will be a power line there in the
13 future with the exception of the areas that
14 Eversource has offered to remove the lines and
15 put them on poles along existing roadways.

16 Q Would you agree that an impact for a facility
17 could be inconsistent with adjacent land uses
18 but still not be unreasonable?

19 A Perhaps. I wouldn't -- be hard to speculate.
20 But I think it's possible.

21 Q Okay. For example, in this case, you've, I
22 believe, acknowledged that there will be a
23 change in the scope of the transmission facility
24 versus the existing facilities, and that change

1 in scope may have some visual impacts, but those
2 effects don't rise to a level that you deem to
3 be significant in the sense of affecting
4 adjacent land uses.

5 A No, especially given the level of effort that
6 was put into working with the towns and
7 especially with the property owners along the
8 right-of-way, there was an impressive level of
9 effort that was made and many design changes,
10 lowering of heights, changing the locations of
11 poles, changing the design of the structures,
12 acquiring rights to go underground, lots of
13 things were done to address concerns that were
14 raised.

15 Q But with regard to the land use analysis in
16 particular, would you agree that even without
17 those changes this Project in an existing
18 corridor is not going to affect adjacent land
19 uses or be inconsistent with those adjacent land
20 uses?

21 A I would find that given that there's no change
22 in land use, no conversion of land, and the fact
23 that there's already an existing right-of-way
24 and an existing power line in that right-of-way

1 that the incremental increase in structure
2 height would not have a significant effect on
3 the adjacent landowners. It would be an effect
4 obviously during construction, but that would be
5 localized and temporary and clear that the
6 Applicant intends to make every effort to avoid
7 and minimize impacts during construction.

8 Q So I think your testimony essentially is that
9 because we're in an existing corridor and
10 perhaps because the change in scale of this
11 Project is not too great, there can't be really
12 a change or there can't be an inconsistency with
13 adjacent land uses.

14 A Based on my review of the specifics of this
15 Project, I found that there would not be an
16 adverse effect or an inconsistency with adjacent
17 land uses, given the presence of the existing
18 corridor.

19 Q And besides the fact that this Project is being
20 cited within or largely within an existing
21 corridor, what other factors establish the basis
22 for your conclusion that there would not be an
23 inconsistency with adjacent land uses?

24 A There are a wide range of factors in the

1 Application about their construction of the
2 Project and what exactly they're proposing, all
3 of which I reviewed and considered and saw no
4 basis for saying that the Project would be
5 inconsistent with existing land uses given the
6 history and use that has been in place for many
7 years even though the structures are taller.

8 Q And I guess what I'm trying to get at is there
9 anything that could have, any set of
10 circumstances that could have created that basis
11 for inconsistency with adjacent land uses if as
12 here you're in an existing corridor?

13 A I think the likelihood would be much greater if
14 it were not within an existing corridor and you
15 were introducing a new use, where it's not
16 currently an overhead transmission line and
17 you're introducing it into areas where it didn't
18 exist.

19 Q But if you are in an existing corridor, is there
20 any factor that you could find that it would
21 become inconsistent with adjacent land uses?

22 A I don't know how to answer your question in a
23 global sense. I think every project needs to be
24 evaluated on its own merits, and my conclusion

1 was based on what I reviewed for this Project.

2 Q Okay. Well, I won't beat that horse any
3 further.

4 In your Original Testimony on page 4 which
5 is electronic page 5, but it's Applicant's
6 Exhibit 13, you list some of the bases for your
7 conclusion. One of those is that almost all of
8 Project is located within or along existing
9 electric utility line right-of-way and
10 transportation corridors. You are aware that
11 there are some portions of this Project that are
12 not within an existing right-of-way; is that
13 right?

14 A Yes. It's within or along existing
15 rights-of-way.

16 Q And you are aware as amended that the Project
17 through Gundalow Landing in Newington does not
18 follow in or along an existing right-of-way at
19 this point?

20 A Yes.

21 Q For a portion.

22 A Correct.

23 Q But that doesn't affect your conclusions.

24 A No. I did review it, but it didn't affect my

1 conclusion.

2 Q And there was a little bit of testimony earlier
3 about the change in character of the
4 right-of-way from a distribution line to a
5 transmission line. Are you aware of that?

6 A Yes.

7 Q And I think you testified a little bit about
8 structure heights. Would you agree that the
9 existing structures in roughly the 40-foot
10 height range?

11 A Yes.

12 Q And those are primarily wooden distribution line
13 poles?

14 A Yes.

15 Q And that the proposed Project ranges from, I
16 believe it goes everywhere from 65 feet up to
17 100 feet at various place along the corridor?

18 A Yes. Depending on topography and spanning of
19 wetlands and other issues. Yes.

20 Q And I think you testified earlier that the sort
21 of average is in the 75- to 80-foot range?

22 A Yes.

23 Q And your testimony or your opinion is that that
24 change in magnitude of the use of the corridor

1 doesn't have any effect on adjacent land uses
2 because it's still the same basic land use in
3 the corridor itself.

4 A It's consistent with the existing development
5 pattern in the community and is the same type of
6 use.

7 Q In looking at your, well, in performing your
8 assessment of the impacts on land use, what
9 region did you use in terms of viewing land use
10 specifically, sitting aside orderly development?

11 A Could you rephrase that?

12 Q Sure. When you're assessing impacts of land
13 use, did you look at a particular region in the
14 state? What's the geographic scale of the area
15 that you're reviewing?

16 A I looked at the area that was part of the ISO
17 evaluation for need in terms of reliability and
18 meeting the needs of the immediate Seacoast area
19 and also reviewed the four communities where the
20 Project is located, looked at the abutting
21 communities as well as the Rockingham County
22 Planning Commission and the Strafford Regional
23 Planning Commission regions.

24 Q So you looked at land uses in that entire region

1 or just patterns?

2 A Looked at a, took an overall look at the uses in
3 that area which is a very rapidly growing area
4 of New Hampshire.

5 Q And how did that review influence your opinion
6 in this case in terms of interference with
7 adjacent land uses?

8 A The fact that the Applicant was locating within
9 an existing corridor where there would not be a
10 change of use was significant in terms of trying
11 to get from one substation to the other in a
12 reasonable way. And in looking at the land
13 uses, I considered how land was being used today
14 and then how the land would be used after
15 construction was completed, and I saw no basis
16 for any significant change in land use.

17 Q Okay. Thank you. Now, I think that we've
18 established that your analysis with regard to
19 land use looks towards whether the Project will
20 prevent or prohibit the continuation of adjacent
21 land uses. Is that fair?

22 A Or interfere with. Yes.

23 Q But by interfere, I think you said that really
24 means whether it can continue to have that

1 adjacent land use or not. Is that right?

2 A Yes.

3 Q Okay. But I believe in your revised report, you
4 did acknowledge that there can be some
5 interference with adjacent land uses from this
6 Project.

7 A There can be impacts associated with
8 construction.

9 Q Okay. But is that your position, that it's
10 limited to construction?

11 A There also was consideration of uses in Durham
12 that were associated with passenger and freight
13 rail service and would that use be able to
14 continue, not only as it relates to construction
15 but also after the project was completed.

16 Q Okay. If this project were not in an existing
17 right-of-way, would it interfere with those
18 types of uses going forward?

19 A I could speculate.

20 Q I guess I'm trying to understand in what case
21 could an energy facility Project interfere with
22 ongoing use of a railway corridor. Short of
23 being built on the tracks.

24 A The ability of, it would involve setbacks and

1 issues associated with setback requirements, not
2 unlike what you have with the New Hampshire DOT
3 and some of their crossings.

4 Q In your report -- Dawn, if we could switch to
5 the projector.

6 In your revised report which is Attachment
7 A to Applicant's Exhibit 146 at page 13 which is
8 electronic page 32 of the exhibit, down at the
9 bottom of the page you have a statement that
10 although the Applicant recognizes that locating
11 Projects such as this along an existing corridor
12 does not in and of itself mean that the Project
13 will not interfere with the adjacent land uses
14 in every case, the Project team in this case has
15 worked diligently to ensure that any potential
16 interference will be minimized and/or avoided.
17 Did I read that correctly?

18 A Yes.

19 Q So I'd like to understand, I understand the
20 concept that seems to be set forth here that
21 there may be some kind of interference, but in
22 this case it's being minimized and/or avoided.
23 But I want to back up for a minute and say what
24 kinds of impacts from like Projects such as this

1 could interfere with adjacent land uses under
2 your rubric?

3 A It could be the placement of a pole. For
4 example, you might have a driveway to a
5 residential property that uses the existing
6 right-of-way for access for part of their
7 driveway and the placement of the pole may make
8 a difference to them in terms of accessing their
9 home. Also could be the case with a commercial
10 interest in terms of their manufacturing
11 operations or their yards for production
12 facilities and issues like that. So pole
13 placement would be one of the factors that would
14 be perhaps most common that could cause a
15 conflict.

16 Q Okay. Do I understand you correctly that the
17 conflict that you're looking at is really sort
18 of a physical interference?

19 A In most cases, because the power line in and of
20 itself doesn't generate traffic, doesn't
21 generate pollution, and is not like a lot of
22 other uses that do generate a lot of activity, a
23 lot of noise, a lot of traffic and possible
24 discharges to septic systems and uses of water

1 with wells and so on. So the types of impacts
2 are quite limited as it relates to power lines,
3 especially in comparison to other types of
4 generation or other types of uses that are
5 routinely approved by local planning boards for
6 residential subdivision, commercial and
7 industrial development and roadway improvements.

8 Q Okay. Thank you. In your report you also
9 discuss construction impacts. It's on
10 electronic page 56 of Applicant's Exhibit 146
11 which is page 37 of your revised report which is
12 Attachment A, you do have a section about
13 potential impacts of construction on land uses.
14 Do you see that?

15 A Yes.

16 Q And you state right at the very beginning that
17 the construction impacts of the Project will be
18 temporary in nature; is that right?

19 A Yes.

20 Q Is that ever not the case with construction
21 impacts?

22 A I think it's a given.

23 Q Is there any circumstance where construction
24 impacts that are by definition temporary would

1 become so great that that would be an undue
2 interference with the orderly development of the
3 region?

4 A I suppose if you had a Project that spanned a
5 long period of time. There may be some highway
6 projects, for example, that take many, many
7 years and so construction, even though it's
8 temporary, would be a longer term situation.
9 But in this case, I don't see any construction
10 impacts that would interfere with orderly
11 development.

12 Q Okay. So beyond going for a long period of time
13 or maybe stay in one place for a long period of
14 time, construction is typically not going to be
15 a factor?

16 A And it's to distinguish from operational impacts
17 that are ongoing and make sure that the reader,
18 it's clear to the reader that we're talking
19 about construction.

20 Q And I believe further down the page you speak to
21 the MOUs at least at this point with the Town of
22 Newington. Is it your position that once an MOU
23 has been established that that essentially will
24 eliminate the construction impacts or mitigate

1 them in some way?

2 A It will help considerably, and the MOU with
3 Newington is very detailed and the MOUs that
4 I've seen with Eversource have generally been
5 very positive in the sense that they allowed for
6 a significant degree of input from the community
7 and opportunities for the community to raise
8 concerns if any exist along the way. So it's
9 generally been a very positive process, and
10 during my years serving on the SEC rarely did we
11 hear complaints because of the fact that the
12 MOUs were in place and they were, the Applicant
13 was willing to make sure that things were
14 addressed.

15 Q Would you agree that while the MOU is a helpful
16 factor, it didn't form the basis of your opinion
17 because your opinion was made before the MOUs
18 were entered into?

19 A Correct.

20 Q In your report in a couple places you talk about
21 roads and road crossings and in particular
22 state-designated scenic roads?

23 A Yes.

24 Q Am I correct that there is one such

1 state-designated scenic road within this Project
2 corridor?

3 A Yes. Route 108.

4 Q And both on, this is page 17 of your revised
5 report which again is Attachment A to
6 Applicant's Exhibit 146, and this is electronic
7 page 36, you have highlighted language from one
8 of our RSAs, RSA 238:22, II. What was the
9 purpose of highlighting this particular statute?

10 A I didn't expect the SEC members or others who
11 read the report to know about that law. In
12 fact, it was in place for a fair amount of time
13 before I was even aware of it. So I thought it
14 was significant given that this is a state
15 proceeding and this is a state RSA.

16 Q Okay. And is it your position that this statute
17 applies in this case?

18 A I provided it for informational purposes, and
19 the statement didn't affect my review of this
20 issue in any way.

21 Q Reading the language, it says that designation
22 of a state scenic highway or cultural byway,
23 quote, "shall not affect the operation,
24 maintenance and expansion of existing public

1 utility lines and facilities."

2 Would you agree that this Project is not an
3 existing public utility line at this point?

4 A I think that's a legal question.

5 Q Well, would you agree that Seacoast Reliability
6 Project has not yet been constructed?

7 A Yes.

8 Q I want to take, with regard to the scenic byways
9 and the Mills Scenic Byway, you've stated that
10 you don't think there's going to be an impact to
11 the Scenic Byway. A significant impact.

12 A You're discussing a town-designated scenic road.

13 Q I'm sorry. Route 108.

14 A 108 you're talking about now.

15 Q Yes. Not Mill Road.

16 A Newmarket Road.

17 Q Newmarket Road. I believe it's called the Mills
18 Scenic Byway.

19 A Yes. I'm sorry. Yes.

20 Q I'll reask the question.

21 I believe your testimony is that you don't
22 feel that there would be a significant impact to
23 the Mills Scenic Byway?

24 A No.

1 Q But would you agree that there are some impacts?

2 A There will be some visibility of it, and I
3 believe the visual expert has addressed that.

4 Q So I put on the screen just for reference
5 Applicant's Exhibit 148 which are the
6 environmental maps, and this is map number 13
7 and you see Newmarket Road which is part of the
8 Mills Scenic Byway cutting across the page here,
9 and the corridor comes across and do you see
10 that there's some tree clearing along the edge
11 of the road on both sides?

12 A Yes.

13 Q And in fact, a proposed structure that's on the
14 east side of the road appears to be very close
15 to the roadway?

16 A Yes.

17 Q And your opinion with regard to land use and
18 orderly development is as long as the scenic
19 impact based on Mr. Raphael's review is not
20 significant or unreasonable, then it's not a
21 factor?

22 A My understanding is that changes were made in
23 the design with input from the town and with the
24 New Hampshire DOT, and there was a review by the

1 visual expert as well, and my conclusion was
2 that the Project as proposed in this location
3 would not affect the overall quality of that
4 Scenic Byway. It's a significant commuter
5 corridor in the area with fast-moving traffic,
6 and the Applicant has made efforts to minimize
7 visibility and do whatever is necessary in that
8 location.

9 Q And so with regard to orderly development, is
10 there ever a situation, I guess, could you
11 imagine a situation where impacts to a scenic
12 byway would tip the scales to undue
13 interference?

14 A First of all, when they're within an existing
15 corridor, you're not introducing a new, you're
16 not introducing a transmission line where one
17 doesn't already cross the right-of-way. And so
18 there's a change in the use, but my
19 understanding is that there's been an effort
20 under way to provide some additional mitigation
21 in that location. I believe there was a
22 suggestion made by Counsel for the Public's
23 visual consultant, and I believe that Mr.
24 Raphael has been involved, in trying to ensure

1 that proper screening is provided within the
2 limitations of that location.

3 Q I agree. But it seems to me that what you're
4 describing is visual impacts of the project and
5 their relationship to scenic byways as being
6 part of the analysis for review of orderly
7 development of the region.

8 A No. I'm suggesting that I looked at it from a
9 tourism perspective and felt that the changes
10 that were occurring in that location and the
11 steps that had been taken to improve the
12 crossing would not result in a decrease in the
13 tourism appeal of the Seacoast area or the Town
14 of Durham.

15 Q But again, it's the types of things that would
16 potentially reduce the tourism appeal are
17 primarily visual impacts?

18 A That's part of it. Yes.

19 Q Okay. And to assess the visual impacts that
20 might have an impact on tourism, what did you
21 use to do that?

22 A I reviewed the work of David Raphael, and I also
23 reviewed the suggestions of the Counsel for the
24 Public's consultant.

1 Q Okay. And I believe your conclusion in your
2 tourism section of the report is that there are
3 very few tourist-related facilities near the
4 project?

5 A Correct.

6 Q And as a corollary of that, there's very few
7 tourism-related facilities that will have some
8 sort of visual impact?

9 A Correct.

10 Q I believe on this page somewhere, I can't recall
11 exactly where, I believe you essentially find
12 that there will be no impact or no effect on the
13 number of visitors to a variety of tourism
14 designations within the area. Does that sound
15 right?

16 A Yes.

17 Q Just for the record, this is electronic page 11
18 4 of Applicant's Exhibit 146. And it is, I
19 believe, part of Attachment B which is your
20 revised, new tourism report, and it's page 8 of
21 that report.

22 So your finding is that there would be no
23 effect on the number of visitors. Does that
24 include during the construction process?

1 A Yes. It does.

2 Q Okay. So you don't, in your opinion there won't
3 be fewer people who want to, for example, go to
4 the UNH Dairy Bar while they're drilling a hole
5 next door for the pipe jacking or putting up
6 towers across the railroad tracks?

7 A No. As you know, the Dairy Bar is accessed from
8 the other side of the railroad tracks so the
9 work that would be done over in A lot would not
10 affect the visitors to the Dairy Bar. There
11 would be, you are correct there would be some
12 temporary noise associated with it just as
13 there's temporary noise associated with other
14 construction projects that are going on during
15 the summer when the students are gone at UNH.
16 But in terms of parking and being able to access
17 the business, there would be no effect and I
18 verified that with the University as well.

19 Q So your analysis is based on physical
20 accessibility for the most part with regard to
21 tourism?

22 A I considered anything that I could think of.

23 Q Okay. But it sounds like you didn't consider
24 construction in the vicinity of noise as being a

1 factor for tourists trying to enjoy eating some
2 ice cream?

3 A I would really would have a hard time measuring
4 that. I'm not aware of any studies that would
5 tell me how many fewer people buy ice cream if
6 noise levels reach a certain point and some of
7 the people are eating inside, some take it
8 elsewhere, and so I don't see any basis for any
9 significant impact on the business during that
10 one summer of construction.

11 Q And I would tend to agree there would not be a
12 significant impact, but I was struck by your use
13 of the phrase there would be no effect to the
14 number of visitors. Seems like there might be a
15 few people who drive on by if there's active
16 construction nearby.

17 A I wouldn't.

18 Q Okay. Fair enough.

19 A I wouldn't drive by. I would stop.

20 Q You did testify just now that you're not aware
21 of any way to measure that. So am I correct
22 that you did not perform any sort of survey or
23 other analysis to determine whether impacts of
24 construction might decrease the number of people

1 who use various businesses in town?

2 A No, except I did look carefully at the parking
3 situation and the use itself and how much of the
4 use was associated with indoor versus outdoor,
5 time of year and type of use.

6 So, for example, the parking in A lot I
7 looked at very carefully and looked at the use
8 during the summer in A lot and whether or not
9 there was enough capacity in A lot to meet all
10 of their current summertime needs within A lot
11 even though some of it would be temporary use
12 for construction, and my conclusion was that
13 there clearly was enough parking area available
14 there, and, again, I confirmed that with the
15 University.

16 Q With regard to other types of recreational
17 tourist uses such as local rail trails or Little
18 Bay, boating along Little Bay, did you do any
19 analysis of whether visual impacts or noise
20 impacts from construction might deter some
21 number of tourists?

22 A I looked very carefully at the trails and where
23 they were located, and as you know, there would
24 be some temporary construction impacts in some

1 locations where trails intersected. For
2 example, there's one location in East Foss Farm
3 that does cross the right-of-way for one very
4 small segment. So there would be a temporary
5 construction impact, but I would, that would be
6 for a, again, localized and very short-term.

7 Q Okay. Sounds like you're acknowledging there
8 may be some temporary and perhaps small impacts
9 that might affect the number of visitors to a
10 small degree, but that --

11 A And also keep in mind that many of these sites
12 have very limited parking available to them for
13 visitors to park and use the trails, and I
14 factored that into my thinking as well. In many
15 cases there are only two or three spaces
16 available, and that's to people who are local or
17 who come from elsewhere.

18 Q Thank you. So in your Supplemental Testimony at
19 page 15 which is Applicant's Exhibit 146 and
20 it's electronic page 16, you reference, you have
21 a section of your testimony called Other
22 Projects, and you reference specifically the
23 Merrimack Valley Reliability Project; is that
24 correct?

1 A Yes.

2 Q And it would appear to me that the purpose of
3 your referencing this Project is to analogize it
4 to this one. Is that fair?

5 A No. I included it because it was the most
6 recent Project that had been approved by the SEC
7 and found to be acceptable and met all the
8 provisions of the SEC statute and rules, but as
9 I indicated in prior testimony here, I pointed
10 it out because of the successful effort that was
11 made to work with the towns and local property
12 owners for the Project, and I was providing some
13 background context about the Project, wasn't
14 trying to compare the two, but I was primarily
15 pointing out that this was the most recent
16 Project. It's the same Applicant, and it was
17 carried out in a very successful manner.

18 Q Okay. So let's look at your testimony.

19 You make the statement here on line 22 that
20 the structures approved in MVRP, while typically
21 H-frame structures, were similar in average
22 height to SRP at approximately 80 to 90 feet
23 above grade. Did I get that correct?

24 A Yes, to provide some context, yes.

1 Q Is it your opinion that that's just generic
2 background or is that included in your testimony
3 to make the point that these are similar?

4 A Some members of the SEC were not on the panel
5 during that proceeding so it was just trying to
6 provide a little bit of background information
7 and context for the reader who may not be
8 familiar with the Project and/or for SEC members
9 who weren't on the panel.

10 Q Okay. Would you agree that the context of the
11 MVRP Project is different than this one?

12 A There are some differences, yes. Certainly.

13 Q And there are some similarities?

14 A Some similarities and some differences. Again,
15 another reason for why it's important to look at
16 each Application on a case-by-case basis.

17 Q Would you agree that in the Merrimack Valley
18 Reliability Project, the right-of-way, the
19 existing right-of-way that was used was a more
20 developed right-of-way than this one?

21 A Yes, certainly.

22 Q And that it was a transmission, existing
23 transmission line as opposed to existing
24 distribution line?

1 A Yes.

2 Q Do you recall, you were involved in that
3 Project, correct?

4 A Yes.

5 Q Do you recall how many different transmission
6 lines were in the right-of-way?

7 A I don't recall, and I think it varied by
8 location. There were four communities.

9 Q I'll refresh your memory. Showing you what's
10 been marked as Counsel for the Public Exhibit
11 22, and do you see that as the Application for
12 the Merrimack Valley Project?

13 A Yes.

14 Q And on page, electronic page 29, which I guess
15 is page 6 of the Application, do you see on the
16 bottom where it talks about Segment 2.

17 A Yes.

18 Q And you see at the very last sentence that it
19 says the segment is currently occupied by three
20 existing overhead transmission lines?

21 A Yes.

22 Q And it looks like two of those are 230 kilovolt
23 lines and one is 115 kV line?

24 A Yes.

1 Q And you reference there are multiple segments to
2 that Project, correct?

3 A Yes.

4 Q So if we shift down a few pages, we get to
5 Segment 3, electronic page 32, and do you see
6 again there at the bottom of that paragraph that
7 in this segment it says it was currently
8 occupied by a single existing overhead 345 kV
9 transmission line? And that the parallel NEP
10 right-of-way contains two 230 kV lines and one
11 450 kV line. So that's it's four lines in the
12 vicinity?

13 A Yes.

14 Q And Segment 4 which is down the page a little
15 bit says it's currently occupied by up to five
16 transmission lines. Do you see that?

17 A Yes.

18 Q So it's quite different from the single
19 distribution line that we're dealing with here.
20 Would you agree with that?

21 A Yes. Absolutely.

22 Q Do you recall from Merrimack Valley Project that
23 the right-of-way involved was ranked between 216
24 and a half feet to 635 feet wide?

1 A I believe so. Yes.

2 Q And you can see that in the Application on
3 electronic page 52 of that Counsel for the
4 Public Exhibit 22.

5 And this corridor for SRP is currently 100
6 feet in most places; is that right?

7 A Approximately, yes.

8 Q And you made the statement in your testimony
9 that the structure heights were similar, in the
10 80 to 90 feet range in your testimony; do you
11 recall that?

12 A Generally speaking, yes.

13 Q Would you agree that the difference in height
14 between the existing condition and the Project
15 condition is not similar between the two
16 Projects?

17 A There are more structures within the MVRP
18 corridor.

19 Q But would you agree that the change in height
20 was different for the MVRP Project than for SRP?

21 A I can't recall the existing heights. I know it
22 was in the decision, the SEC decision. There
23 was an increase in height, but I can't recall
24 exactly how much.

1 Q So I'll show you what's been marked as CFP
2 Exhibit 24, and I'll represent to you that this
3 was something that was produced in the Merrimack
4 Valley Project by the Applicant subject to a
5 Data Request, and in that proceeding it was
6 marked as CFP Exhibit 1. But you will see that
7 this is a chart of all the structures that are
8 proposed for the MVRP Project, and on the
9 right-hand column it shows the difference in
10 height to the nearest tallest nearest existing
11 structure. Do you see that?

12 A Yes.

13 Q And if you scroll down through this document,
14 would you agree that we're looking at change in
15 heights that range from as little as five feet
16 and it looks like maximally around 30 feet?

17 A 32 feet or so. Yes.

18 Q But most of these are in the 10 to 25 foot
19 increase? And there's several pages, but --

20 A Yes.

21 Q Does that square with your recollection?

22 A Yes. That sounds relatively accurate. It was a
23 range of height increases, and the increased
24 height was less than in this Application.

1 Q And we had some discussion earlier that the
2 existing structures in this Project are in the
3 40-foot range; is that correct?

4 A Generally speaking, yes.

5 Q So in Counsel for the Public Exhibit 7, starting
6 at page 4, electronic page 4, there's a chart
7 that was produced in discovery showing the
8 proposed structure heights for all the
9 structures in this Project; does that look
10 familiar?

11 A Yes.

12 Q Okay. And so looking at the proposed structure
13 heights, so this is not the change in height but
14 the actual height, would you agree that they
15 range from low 40s to in many cases 85 to 95 and
16 in a few cases a hundred or greater?

17 A Yes, depending on topography and other factors,
18 yes.

19 Q So would you agree that the change in height of
20 the structures between the two Projects is
21 significantly different?

22 A I would -- I'm not sure. How would you define
23 significant?

24 Q Well, would you agree that in the Merrimack

1 Valley Project the majority of the structure
2 height changes were in the 10- to 25-foot range
3 whereas in this Project it's more on the order
4 of 45 to 60 feet?

5 A Yes. I would agree with that.

6 Q Okay. All right. Thank you.

7 In your testimony, let's go back to that.
8 You also have a statement that -- so we're back
9 in Applicant's Exhibit 146 which is your
10 Supplemental Testimony at page 15 which is
11 electronic page 16, and you had a statement
12 starting on line 26 that the MVRP is more
13 visible to the traveling public than SRP as it
14 crosses Interstate 93, New Hampshire Route 28,
15 New Hampshire Route 128, et cetera, et cetera.
16 Do you see that?

17 A Yes.

18 Q So is your point that there are more road
19 crossings?

20 A No. That there are more crossings of major
21 roadways.

22 Q Okay. And why is that relevant --

23 A In addition to all of the local roads, yes.

24 Q Why is that relevant to your opinion on land use

1 or orderly development?

2 A Just in terms of visibility to the traveling
3 public, and that's an issue that has been raised
4 in virtually every docket.

5 Q Okay. So I want to take a quick look at the
6 road crossing in the Merrimack Valley Project
7 just to get a flavor.

8 So what I'm showing you is Counsel for the
9 Public Exhibit 23 which are the environmental
10 maps from the Merrimack Valley Project. I guess
11 they're called the Wetlands Permitting plans in
12 this case. Do you see that?

13 A Yes.

14 Q Okay. And map 41 which is on electronic page 12
15 shows the crossing of Route 38. Do you see
16 that?

17 A Yes.

18 Q And in this, for this Project, in this segment
19 of the Project the proposed line is the dotted
20 yellow line along the center of the
21 right-of-way; do you agree with that?

22 A Yes.

23 Q And then there's also an existing line that was
24 in the middle that has been relocated to the

1 edge of the right-of-way. Is that your
2 recollection as well?

3 A Yes.

4 Q Okay. So your point, I think you said, was that
5 there were road crossings with a greater number
6 of travelers. Is it also your point that this
7 is, the Merrimack valley Project is as visible
8 to the traveling public as the SRP Project?

9 A That it crossed several busy, busy highways.

10 Q Okay. But would you agree there was already, in
11 the Merrimack Valley situation, there was also
12 already existing high voltage transmission lines
13 of similar size crossing all those same roads?

14 A Yes.

15 Q Would you agree that in the Seacoast Project
16 there's currently not high voltage lines of
17 similar height to the proposed Project crossing
18 the various roads?

19 A The structures are taller, but there are fewer
20 major crossings.

21 Q Okay. Let's take a look at that.

22 I'm looking for I-93 and not finding it.
23 I'll get there. There it is. So now we're on
24 map 97 which is electronic page 68. And again,

1 the yellow line in the center is the proposed
2 project for Merrimack Valley. Is that correct?

3 A Yes.

4 Q And here it looks like five other transmission
5 lines crossing the highway at that location?

6 A Yes. It's a busy corridor.

7 Q And so with regard to your statement that the
8 Merrimack Valley Project was more visible to the
9 traveling public, is it your position that the
10 addition of one similarly sized transmission
11 line crossing where there are five already
12 existing is visible to the traveling public?

13 A I'm simply pointing out the facts that the
14 Project itself added to the number of lines that
15 were crossing that busy highway.

16 Q Okay. But I think you've agreed that the
17 character of these two projects is different in
18 that there's a greater change to the existing
19 scope of the right-of-ways' use for Seacoast
20 Project than for the Merrimack valley Project?

21 A Yes. They're different projects, and as I
22 stated previously I was providing some
23 background about them that was of interest and
24 that the key point that I was trying to make is

1 that there were lots of adjacent land uses even
2 though it's an existing right-of-way with other
3 transmission lines, and that the Applicant was
4 commended by the towns and the local property
5 owners for the efforts that they made during the
6 construction process to address concerns and
7 carry out a Project successfully.

8 Q And that's important to show that there won't be
9 a significant construction impact to the
10 Project.

11 A That they're capable, the Applicant is capable
12 of doing a good job with their outreach and
13 avoiding and minimizing impacts.

14 Q But with regard to your actual opinion on
15 orderly development, is that because of reducing
16 construction effects?

17 A That -- could you rephrase the question?

18 Q I guess I'm trying to understand the relevance
19 of the Applicant's sort of managerial capacity
20 to your analysis of orderly development.

21 A That they've worked very cooperatively,
22 collaboratively, with the towns and the property
23 owners to address perceived concerns and --
24 perceived issues and issues of concern with

1 screening and buffering and changing pole
2 locations to reduce visibility, adjusting the
3 Project in numerous ways, being respectful of
4 their property rights and the use of their
5 property and doing it in a way that the town and
6 the state officials and property owners were
7 happy about and commended them for.

8 Q Okay. But what part of the orderly development
9 of the region criteria does that apply to?

10 Impacts on adjacent land uses, working with
11 property owners, doing the outreach to improve
12 the project design is important, and in the case
13 of Seacoast Reliability Project, almost half of
14 the line has been placed underground, and
15 they've made numerous changes to the overhead
16 design to try to be responsive, and moving
17 forward I think they have every intention of
18 working with people on buffering and planting
19 plans to continue to find ways to address their
20 concerns and then to be able to carry out a
21 project in terms of construction in a way that
22 people are relatively satisfied with. And this,
23 of course, is in conjunction with having MOUs
24 with the municipalities.

1 Q But I thought we established earlier that your
2 analysis with regard to land use was that as
3 long as adjacent land uses could continue to
4 exist, there would not be an inconsistency. So
5 the fact that they've done good outreach doesn't
6 seem to have any --

7 A They've done that, and they've tried to minimize
8 construction impacts, and they've tried to work
9 with adjacent property owners who are the
10 adjacent land uses so that they can continue to
11 enjoy and use their property as they have been.

12 Q But I believe you testified earlier that even if
13 they hadn't done any of that, because this line
14 is proposed to be sited in an existing corridor,
15 it's not going to be inconsistent with adjacent
16 land uses?

17 A No, it wouldn't be, but what I'm suggesting is
18 that the Applicant has made every effort to try
19 to work with local property owners, and I think
20 that's an important point.

21 Q And with regard to going back to the Merrimack
22 Valley Project and the general happiness of the
23 towns, I guess, with the way the project was
24 constructed, would you agree that the towns

1 didn't oppose that project in any way?

2 A They didn't intervene. No.

3 Q Good. Thank you. I have no further questions.

4 PRESIDING OFFICER WEATHERSBY: Okay. Thank
5 you. We'll now take questions from the
6 Committee. Mr. Way?

7 MR. WAY: I have one question to start with
8 from Mr. Fitzgerald. Do you want me to read
9 that?

10 PRESIDING OFFICER WEATHERSBY: Yes.
11 Please.

12 **QUESTIONS BY DIR. WAY:**

13 Q Good afternoon now. How are you?

14 A Good afternoon.

15 Q This is a question that as I mentioned was
16 submitted by Mr. Fitzgerald who had to leave a
17 little bit early. Bear with me here. I'm
18 trying to read his writing.

19 "The revision to the Newington master plan
20 was completed one month prior to date of the
21 Application. Were you aware of this at the time
22 and were you able to consider this in your
23 report?"

24 A Well, as I explained, the Applicant worked with

1 the Town for approximately two years and then
2 following the presentation on the Project in
3 January '15, I believe they amended their master
4 plan in February of '15, less than 30 days
5 later, and I would not have been aware of it had
6 I not met with the Town Planner and asked him if
7 there was anything that I needed to be aware of
8 beyond what was on the website at that time.

9 And he said yes, they had made this
10 amendment to their utility section, and I asked
11 him for a copy of it. Otherwise, I wouldn't
12 have known about it at all.

13 And then as I indicated subsequently, they
14 took it off the website and took the master plan
15 off the website and did not have anything on
16 their website about the changes other than the
17 fact that there was a consideration of the issue
18 at a Planning Board meeting.

19 So, fortunately, I did have a revised
20 version, and I discussed that in my report, but
21 then I was surprised to see a different version
22 of the revision that was provided to the SEC.
23 And in looking into that issue, I found that my
24 understanding at least is that the Planning

1 Board decided to make a revision in February of
2 '15. They apparently left the wording up to the
3 Town Planner and Town Council according to the
4 minutes of their meetings. I don't know any of
5 the specifics associated with that. And so I
6 wasn't aware of a new version until it was
7 submitted as an attachment to Prefiled Testimony
8 provided by the Town to this Committee and then
9 went online to see if I could look at it there
10 as well, and there was still no master plan on
11 their website and compared the version I had and
12 the version that they had and there were some
13 revisions in it.

14 I don't believe that anything was provided
15 by the Town, despite two or three years of
16 meetings with the Planning Board and the Town
17 that or members of the Town that anything was
18 ever mentioned to them.

19 So I would say yes, I did consider the
20 changes in the report, but I wanted to provide
21 that context.

22 Q It did get a bit confusing.

23 A Yes. And I was confused.

24 Q So in terms of the utility portion there

1 actually ended up being three different
2 versions. That's my understanding.

3 A Yes. The earlier version that I had reviewed
4 expressed the fact that utility easements needed
5 to be protected, and it talked about the 100
6 foot right-of-way and the -- excuse me. I'm
7 losing my voice here. That to protect the
8 easement where there were electric lines
9 existing in the community, but it was not
10 targeted at any particular project.

11 And then a month after the meeting in
12 January '15 changes were made that were clearly
13 directed at the Project, and I was somewhat
14 surprised because of the fact that typically in
15 planning, and I was a former Director of State
16 Planning, head of two regional planning
17 commissions, I've been involved in the
18 preparation of over 50 master plans, the process
19 that they used for an amendment to the master
20 plan was very unusual. And I'm not suggesting
21 they don't have the right to make changes to
22 their plan, but the process usually involves
23 visioning sessions and discussion of your
24 overall vision for the community, and then you

1 start making revisions to land use and other
2 chapters. And they actually did hire the
3 Rockingham Planning Commission to work with them
4 on their master plan, and they've been working
5 on it now for two years. They did have
6 visioning sessions in November of '17 which was
7 almost three years after they amended the plan.

8 In the visioning sessions, I reviewed all
9 the comments that were on line. There were 240
10 comments, I believe, and there were no direct
11 references to SRP in their visioning despite the
12 fact it was an active Application. There were
13 three or four comments that related in some way
14 to utility corridors, and then they had a
15 community survey as well, a citizen survey
16 online or pick-up-at-the-town-hall survey. I
17 believe there were about 50, I'm sorry, about 74
18 respondents, and, again, SRP was not mentioned
19 in this townwide survey specifically as a major
20 issue or concern.

21 Again, I'm not suggesting that it's not a
22 concern in the community, but I find it
23 interesting looking objectively at the
24 information that it wasn't mentioned in all

1 those comments for the visioning sessions which
2 some of them, of course, discussed other issues
3 like housing and wouldn't, might come up under
4 residential, but it was not a prevalent comment
5 in the visioning sessions that are available
6 online or in the online survey that's online,
7 and I found that surprising.

8 So that's some of the background. Again,
9 I'm not suggesting the Town doesn't have the
10 right to amend their master plan, and some towns
11 do revise master plans chapter by chapter, but
12 this was out of the blue.

13 Q I was going to ask a little bit about the
14 process so I think that was helpful.

15 Make sure I understand. So when we look at
16 those three versions, do we have the three
17 versions? I know we have one version. Do we
18 have the three versions to compare to or to see
19 so we have a sense of what was changed? We talk
20 about a sentence here and a sentence there and I
21 don't know if we received that.

22 A Well, you have the current version.

23 Q The current version?

24 A Which was provided by the Planning Board

1 Chairman in his Supplemental Prefiled Testimony.
2 So you do have the current version. But my
3 point was the unusual part of it was it was
4 submitted and was different than the version I
5 had seen, and then they went back and
6 retroactively amended their meeting minutes, in
7 2018 amended their 2015 meeting minutes for the
8 new version that was submitted. It's very
9 unusual.

10 Q And that's -- I understand. So we've got the
11 new version. I'm interested in the version that
12 you saw originally. The one that you had. I
13 think was the 2009 version.

14 A The 2009 version for the, covering the period
15 2010 to 2020, period we're in now.

16 Q Do we have that?

17 A Yes. That was the question about the link.

18 Q Okay.

19 MR. NEEDLEMAN: Well, I believe it was
20 submitted as part of the redirect on
21 Construction Panel.

22 Q Okay. Very good. With regards to tourism, and
23 I guess sometimes I'm just summarizing what I'm
24 hearing, and sometimes we harken back to other

1 projects. I'm not hearing from an impact to
2 businesses involved with tourism a level that
3 rises to something that is critical to that
4 business. Talking about tourism. Whether it be
5 kayaking or another type of business. I'm not
6 hearing any sort of business action that occurs,
7 employment action that occurs, is that your
8 understanding?

9 A Yes. But I would say that the businesses that
10 are on Little Bay want to make sure that it's
11 done, the crossing is done in an environmentally
12 sound manner and that there be outreach prior to
13 construction. That was a universal desire for
14 those who, where it applies, and there were very
15 few tourist-related businesses along the
16 right-of-way, and we were expansive in trying to
17 include as many types of tourism businesses as
18 we could and to evaluate each one as it relates
19 to the project. So there's a great deal of
20 detail that's been provided in the report.

21 Q And in terms of tourism-related businesses, and
22 I think I saw it was your request of the Town of
23 Durham, they submitted a list. I think it was a
24 fairly large list of businesses --

1 A No, actually they didn't provide a list.

2 Q Not a list. I mean, just in the aggregate there
3 was a number of businesses?

4 A Right, with no basis for that, and I assume that
5 they were including any business that was in the
6 downtown area, and as you know, the Project is
7 undergrounded as it goes under, goes past Main
8 Street, and with the exception of the owner of a
9 plant and nursery business, gardening business,
10 on Longview, there really weren't any beyond UNH
11 until you get to Little Bay, and there are
12 activities in the bay.

13 Q So I think it was like 180 or something like
14 that, the number that he said. None of them
15 came out and tried to quantify, this would be
16 the impact to my business, this would, this is
17 how I might have to alter things, this is what I
18 might have to do to employees or with regards to
19 employees? That didn't come to your attention?

20 A No.

21 Q In terms of the nontourism businesses, so I saw
22 the, from the gardening center I saw some of the
23 quantification that occurred in terms of the
24 operation of the business. That's being worked

1 with. I looked at Fat Dog's assessment in terms
2 of their operation. But once again, I think
3 also, too, because more information is needed,
4 but no impact to operations at this point.

5 A And the two businesses that are significant
6 tourism-related businesses are Gundalow Company
7 and Portsmouth Harbor Cruises, and I provided
8 information about their schedules in the report
9 and spoke with them directly about the project,
10 and I'm confident that with good communication
11 there will be either no impact at all or minimal
12 impact during the construction of the crossing.

13 Q More just time-of-year type construction
14 schedules?

15 A They do have some boating activity in the fall,
16 and we discussed how often they are doing that.
17 They also have some charter businesses, but as
18 they did with the, with a much bigger project,
19 the Sarah Long Bridge, they altered their
20 locations. They have a number of options for
21 their charters and for their public tours, and
22 it was obvious that they could easily avoid the
23 corridor on those few days when construction was
24 actually occurring if they needed to. In fact,

1 one of them said he wasn't even sure that, even
2 if they were constructing that he might be able
3 to still operate in that area. So they're
4 operating primarily in the Piscataqua River
5 area. They go up the Cocheco. They go into
6 Little Bay and Great Bay, and they do sometimes
7 go out of the Jackson Lab location where they
8 can go down into Great Bay.

9 Q The only other, not the only other but the one
10 that we've been talking about was the mall and
11 the activity happening there, but I didn't see
12 anything.

13 A No. They've talked with, the Outreach Team has
14 talked with the mall owners, and they want to
15 continue those talks, and they've actually gone
16 out and spoken directly with store managers and
17 restaurant managers in that area, both at the
18 mall and some of the other businesses that are
19 on Woodbury Avenue and Gosling Road to make sure
20 that they're aware of the Project, find out if
21 there are any special concerns that they had.
22 And generally, the desire was to just have good
23 communication moving forward.

24 Also with regard to that, I was aware that

1 COAST which is the regional bus service and
2 Wildcat Transit do operate buses that are in the
3 Woodbury Avenue, Gosling Road and mall area. So
4 I spoke with Rad Nichols, the Executive Director
5 for COAST, to talk to him about the Project, and
6 he said it was refreshing to have someone talk
7 about a construction project in advance so that
8 they would be aware of it and look forward to
9 hearing about the details of their construction
10 schedule next year when they're actually doing
11 work in that area, which as you also know,
12 they're trying to time construction so that they
13 can avoid peak holiday activity in the mall area
14 as well.

15 Q Thank you. No further questions.

16 PRESIDING OFFICER WEATHERSBY: Mr. Shulock?

17 MR. SHULOCK: Sure.

18 **QUESTIONS BY MR. SHULOCK:**

19 Q Good afternoon, Mr. Varney.

20 A Good afternoon.

21 Q On page 8 of your Original Testimony, you state
22 that the Project is generally consistent with
23 local master plans and zoning ordinances and the
24 Project will not interfere with their

1 implementation.

2 And then in Appendix 46, your report, I
3 believe it says that you did an exhaustive
4 review of the zoning ordinances of the three
5 towns. Can you tell me a little bit more about
6 that review?

7 A Sure.

8 Q What the purpose of that was for you?

9 A Sure. For the Town of Newington we, and this is
10 described in the report as well, the different
11 uses and zoning districts that the Project is
12 within and so, for example, in Newington it's
13 not only in the residential district but it's in
14 the commercial and the waterfront industry and
15 commerce district and they also have a wetlands
16 overlay district, and I looked at a number of
17 factors. Permitted uses, for example, in
18 Newington, small wind systems are permitted
19 uses, and the height limitations on those are 35
20 feet above tree line or 150 feet in height
21 within the residential district or any other
22 district in town.

23 They also had cell tower provisions that
24 were, I don't think there was a height limit for

1 those. There was a, I believe, a 200-foot limit
 2 in Durham for cell tower heights, and with
 3 respect to electric transmission lines the Town
 4 of Newington expressly exempts electric
 5 transmission structures from height limitations.

6 So, in other words, Newington does not have
 7 a maximum height level for electric transmission
 8 structures, and that's indicated in the zoning
 9 ordinance where they have the dimensional
 10 controls, the dimensional requirements for
 11 setbacks and heights and other things.

12 And the same with Durham looking through
 13 each of the districts and the same in Portsmouth
 14 and Madbury, the Planning Director for
 15 Portsmouth said that the Project was consistent
 16 with their master plan and zoning. There was no
 17 concern in Madbury, and while there was some
 18 issues in Durham, it was reasonably consistent.

19 I should also say that Durham during this
 20 whole process was in the process of updating
 21 their master plan while this has been an active
 22 Application, and their future land use plan that
 23 was adopted in 2017, last year, does not even
 24 mention the SRP Project, and they had an all-day

1 session, facilitated session, in Durham with
2 significant level of attendance, and again, the
3 SRP was not even brought up in that entire day
4 of talking about what are the concerns in the
5 community and what did we need to be doing
6 better and what's our vision for the future and
7 so on.

8 So items of interest, none of these are
9 deciding factors, but these are some of the
10 kinds of things that we look at when we evaluate
11 zoning ordinances.

12 Naturally, I should add that with a linear
13 project like this, a Project is not subject to
14 local zoning, but it helps to look at it, and
15 it's especially important if you're going in an
16 area with a generation facility and you're not
17 locating the power plant in an area that is
18 suitable for a power plant and where it's, going
19 cross country where there's no corridor and what
20 kinds of uses and what's the future land use
21 plan for that area. Might be an area that the
22 town has set aside where they want to build a
23 new library or could be some other issue that's
24 in the master plan that could be taken into

1 account.

2 Q Thank you. So with the focus on just zoning
3 ordinances, not master planning, in your review
4 did you determine whether the transmission
5 infrastructure was a permitted use, or stated
6 another way, a nonpermitted or prohibited use in
7 the districts through which it's going to go?

8 A It was not prohibited in any of the four
9 communities and was an existing use. And the
10 fact that the Newington zoning ordinance calls
11 out that there are no height limits for electric
12 transmission structures did not speak about any
13 differences of one district versus another.

14 Q Okay. And the Newington ordinance, is that an
15 ordinance that lists permitted uses and only
16 those permitted uses are allowed or is it an
17 ordinance that lists prohibited uses alongside
18 the permitted uses?

19 A There are permitted uses that are provided. In
20 most cases, local town zoning ordinances do not
21 speak to transmission lines or electric lines in
22 general as permitted or not permitted, and I
23 have rarely even seen height limitations at the
24 local level. I remember that City of Franklin

1 had one, but they grant variances, but it's
2 unusual to see that in a zoning ordinance.

3 Q That's what I was trying to draw from your
4 answer. There were none of the ordinances that
5 said transmission or utility infrastructure are
6 prohibited.

7 A None of them.

8 Q Okay. And do you know when the Town of
9 Newington adopted zoning ordinances?

10 A I can't recall the exact date. They actually
11 have a nice list that's a summary by year of
12 changes that they've made over time.

13 Q Okay. But as I understand this line went in
14 some time in the '50s as a result of an eminent
15 domain taking or construction?

16 A Yes.

17 Q Do you know whether the zoning ordinance was in
18 effect at that time?

19 A I don't. Based on my knowledge of planning,
20 zoning, I would guess that it wasn't, but --

21 Q You don't have to guess.

22 A I can't confirm that.

23 Q Thank you.

24 PRESIDING OFFICER WEATHERSBY: Does any

1 other member have questions for Mr. Varney? I
2 have just a couple quick ones.

3 **QUESTIONS BY MS. WEATHERSBY:**

4 Q Good afternoon, Mr. Varney.

5 A Good afternoon.

6 Q Your overall conclusion was that the Project
7 would have no undue interference with orderly
8 development of the region, and you were getting
9 a little bit to my question with Attorney Aslin,
10 but how specifically did you define region in
11 your conclusion?

12 A There's no single definition. I looked at the
13 ISO region where they had a map and drew the
14 area that they were looking at in terms of the
15 need for the Seacoast area Project. And
16 obviously from that perspective, this Project
17 advances orderly development to meet this
18 critical need for the Seacoast area.

19 And then also because we have regional
20 planning commissions and we had two towns in one
21 region and two towns in the other region, so we
22 looked at, I spoke with the Executive Director
23 of both planning regions as well as the, two of
24 them retired and the new ones as well and also

1 the counties themselves.

2 And even statistical data that I reviewed
3 that was MSA, Metropolitan Statistical Area,
4 information, and the Seacoast region and these
5 two counties are the only area along with the
6 Nashua/Manchester area that are part of an MSA
7 along with Massachusetts.

8 So I looked at it multiple ways to make
9 sure that I wasn't missing something.

10 Q You considered the region to be as ISO defined
11 it, as the data defined it and then the two
12 counties, Rockingham and Strafford County?

13 A Yes.

14 Q Including the four towns?

15 A Primarily. Yes.

16 Q Is that true as you looked at each subcategory
17 for land use, economy, and tourism, you had the
18 same region for each of the subcategories?

19 A Same regions, yes. Same concept of looking at
20 the region, and of course, some of the data
21 varies by region and which type of data you're
22 looking at, but I reviewed the information that
23 Dr. Shapiro provided, for example, on the
24 economy. I looked at the ISO region. And of

1 course I reviewed information from the regional
2 plans that are in place for the Strafford and
3 Rockingham Planning Commissions.

4 Q In reaching your conclusions, you considered the
5 region being what we just described?

6 A Yes.

7 Q Okay. I didn't see any mention and can you just
8 confirm for me that no affected community has
9 voted or proposed any warrant article in
10 opposition or in favor of or taking any stand
11 whatsoever with regard to this Seacoast
12 Reliability Project; is that correct?

13 A With regard to this Project?

14 Q Yes.

15 A Well, the Town of Newington has taken a position
16 with respect to its intervention in this
17 procedure and their testimony.

18 Q But there's no been no vote of the townspeople.
19 The Town of Durham, of course, is an Intervenor
20 as well. But there's been no vote of the
21 townspeople or proposed warrant article that you
22 know of taking a position with regard to this
23 Project?

24 A No. There hasn't, and two of the communities

1 didn't even intervene nor did the regional
2 planning commissions.

3 Q With regard to Ms. Heald, am I correct in
4 understanding that there's a, you guys are
5 working out a Memorandum of Understanding to
6 accommodate her business?

7 A That's my understanding, and the record shows
8 during discovery that there's been a lot of
9 ongoing communication. In my discussions with
10 the Eversource staff involved in the Project,
11 they have a sincere interest in working with her
12 and making sure that whatever they do is
13 reasonable and can avoid and minimize impacts to
14 the greatest extent possible and not have her
15 incur any significant loss of business or
16 interruption.

17 Q So you feel it's likely that you'll make an
18 understanding with Ms. Heald?

19 A I think so. I'm not part of the process. But I
20 know that she would like some sort of an
21 agreement.

22 Q Thank you. I have nothing further.

23 PRESIDING OFFICER WEATHERSBY: Attorney
24 Iacopino, do you have any questions?

1 MR. IACOPINO: No.

2 PRESIDING OFFICER WEATHERSBY: Does the
3 Applicant have redirect?

4 MR. NEEDLEMAN: Thank you, Madam Chair.
5 Just a couple of questions.

6 **REDIRECT EXAMINATION**

7 **BY MR. NEEDLEMAN:**

8 Q So Mr. Varney, going back to question that Ms.
9 Geiger asked you earlier about the way in which
10 you considered the requirement in the statute as
11 to doing due consideration to municipal views,
12 Ms. Geiger asked you about the meetings that you
13 attended personally.

14 I've put up Exhibit 140, Attachment A,
15 which we've seen before. It's the Outreach
16 Summary. And the bottom of that first paragraph
17 in the Outreach Summary indicates that the
18 Project team had a total of 18 meetings with the
19 Town of Newington prior to the time the
20 Application was filed. Were all those
21 additional meetings beyond the meetings that you
22 personally had also a factor to you?

23 A Yes. They were.

24 Q How so?

1 A It was a clear indication to me that Eversource
2 had a sincere interest in working with the Town
3 and to try to address concerns and had been open
4 and honest with the community dating back to
5 2013.

6 Q Ms. Geiger, when she was questioning you, also
7 pointed to the provision in the amended master
8 plan with the phrase incompatible as
9 transmission lines in that related to
10 residential uses, and I think when she was
11 questioning you she observed that the change was
12 made before the Application was filed, and she
13 said it was over a year before the Application
14 was filed. Do you recall that?

15 A Yes.

16 Q So another provision in here is this detailed
17 summary of all of the meetings that occurred
18 with the Project, and it's hard to read here,
19 but, again, it's Exhibit 140, Attachment A.

20 Is it correct that the first outreach
21 meeting that the Project had with the Town of
22 Newington was on December 20th, 2013?

23 A Yes.

24 Q And so that was approximately 15 months before

1 this change was made?

2 A Yes.

3 Q And this summary also indicates that there were
4 meetings in April and December of 2014 and one
5 in January of 2015 with Newington?

6 A Yes.

7 Q So is it your understanding that Newington had a
8 clear sense of what this Project was actually
9 about and where it was proposed to be before
10 they made those changes to the master plan?

11 A Yes.

12 Q And then one other question. Ms. Geiger also
13 put up a portion of the 2009 plan that she
14 pointed to that she said referenced transmission
15 lines, and the end quote in there was
16 transmission lines that would help to attract
17 electric generating plants. Do you recall that?

18 A Yes.

19 Q Given that the focus of that provision was
20 specifically on attracting electric generating
21 plants, now that you've had a chance to look at
22 it, does that have relevance to your analysis?

23 A No.

24 Q Why not?

1 A Because it was relating to a attracting
2 generation in the Town of Newington and was not
3 speaking to electric transmission lines to serve
4 the Seacoast region where it's a Reliability
5 Project and doesn't relate to generation.

6 Q Thank you. Nothing further.

7 PRESIDING OFFICER WEATHERSBY: Okay. That
8 will conclude our hearing for today. Thank you,
9 Mr. Varney. And we will reconvene here on
10 Monday, October 15th, and we will hear from Mr.
11 Raphael. So thank you all.

12 MS. GEIGER: Madam Presiding Officer, I
13 have a question, please?

14 PRESIDING OFFICER WEATHERSBY: Yes, Ms.
15 Geiger.

16 MS. GEIGER: Thank you. I just want to
17 make sure that the record is clear, and I want
18 to make sure I understand Attorney Needleman's
19 response to where in the record the Newington
20 master plan is located.

21 I believe he said something about the
22 Construction Redirect, but I'm still not clear
23 where that is, and I really want to make sure
24 that the Committee has available to it the most

1 current versions of the Newington master plan
2 and zoning ordinances, and if you don't, I'd be
3 happy to provide them.

4 PRESIDING OFFICER WEATHERSBY: Was the
5 current master plan attached to your client,
6 Town of Newington's, testimony? Do we have that
7 if the record from you?

8 MS. GEIGER: Yes. Mr. Hebert has provided
9 the relevant sections of the most current
10 version of the Newington master plan as both
11 attachments to his Prefiled Testimony and the
12 Supplemental Prefiled Testimony. I believe the
13 witness has made reference to some other things
14 and we're not aware of a third version of the
15 master plan. We know there's a master plan and
16 the only section that was changed was that one
17 section. And so we believe we've covered it,
18 but we don't have the burden in this docket.
19 It's up to the Applicant to provide you with,
20 the rule is clear, the Applicant must provide
21 you with this information. I just want to know
22 where, where their version of the master plan is
23 in their filing.

24 PRESIDING OFFICER WEATHERSBY: Attorney

1 Needleman?

2 MR. NEEDLEMAN: I think we're talking about
3 two very different things. Let me try to
4 address them both. First with respect, I think,
5 to Mr. Way's question. He asked about whether
6 prior versions were in the record, and my answer
7 was that as part of the Construction Redirect,
8 we provided the relevant portion of the prior
9 version that is Applicant's Exhibit 199. So
10 that's in the record.

11 With respect to the other question that was
12 raised earlier about the links, the answer is we
13 said we would check and get back to you and have
14 not had a full opportunity to do that yet, but
15 we will answer that question.

16 PRESIDING OFFICER WEATHERSBY: So let's
17 wait and see what the Applicant comes up with
18 and if we have links, and then we can decide
19 whether we need more information at that time.

20 MS. GEIGER: Thank you very much.

21 PRESIDING OFFICER WEATHERSBY: Thank you.
22 Okay. We are adjourned for today, and we'll see
23 you Monday or if anyone is coming to the comment
24 session tonight, we'll see you then.

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(Whereupon Day 8 Morning Session
adjourned at 12:49 p.m.)

C E R T I F I C A T E

I, Cynthia Foster, Registered Professional Reporter and Licensed Court Reporter, duly authorized to practice Shorthand Court Reporting in the State of New Hampshire, hereby certify that the foregoing pages are a true and accurate transcription of my stenographic notes of the hearing for use in the matter indicated on the title sheet, as to which a transcript was duly ordered;

I further certify that I am neither attorney nor counsel for, nor related to or employed by any of the parties to the action in which this transcript was produced, and further that I am not a relative or employee of any attorney or counsel employed in this case, nor am I financially interested in this action.

Dated at West Lebanon, New Hampshire, this 18th day of October, 2018.

Cynthia Foster, LCR